



STAFF REPORT
CITY OF BEVERLY HILLS

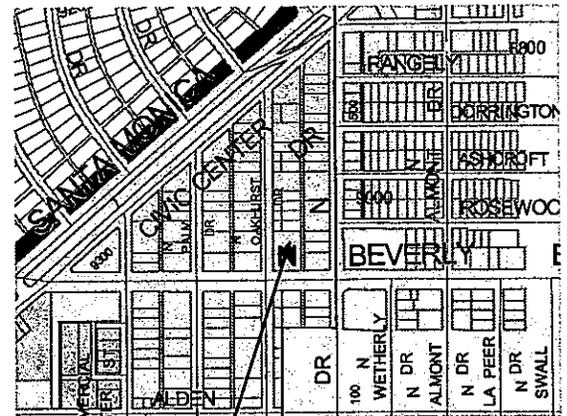
**For the Planning
Commission Meeting of
September 25, 2008**

TO: Planning Commission

FROM: Rita Naziri, Senior Planner

THROUGH: Jonathan Lait, AICP, City Planner

SUBJECT: Time extension request for approved Development Plan Review and R-4 Permit for a thirty-four unit residential condominium project, 55-foot high, 89,385 square-feet, located at **432 North Oakhurst Drive.**



Project Site

RECOMMENDATION

It is recommended that the Planning Commission adopt a resolution (Attachment 1) approving a one-year time extension for the Development Plan Review Permit and R-4 Permit approved for the project at 432 N. Oakhurst Drive.

EXECUTIVE SUMMARY

Murray D. Fischer, applicant, on behalf of Umbrian Properties LLC, a California Limited Liability Company, property owner, has filed a request for a one year time extension for the Development Plan Review Permit and R-4 Permit approved for the project at 432 N. Oakhurst Drive under Planning Commission Resolution No. 1393. An extension would extend the time limit for the exercise of the Development Plan Review Permit and R-4 Permit from September 28, 2008 to September 28, 2009.

Project Description

The proposed project would be five-story, 55-foot high building, with 34-units. Of the 34-units proposed, all are between 1,650 to 2,900 sq. ft. with 19-units with 3 bedrooms,

13-units with three-bedrooms and den, 1-unit with 2 bedrooms and 1-unit with 2 bedroom and den. The two-level, subterranean garage would be accessed from a 27'6" driveway on Oakhurst Drive. The garage would contain 112 spaces, with a total garage area of 53,260 sq. ft. A 10-foot wide walkway is proposed to provide access from the public sidewalk to the building. An R-4 Permit was approved to allow the 10 feet for the paved walkway within the front yard setback area, instead of the 5-foot wide maximum allowed by Code. The outdoor living area as proposed exceeds the minimum area required by Code. The locations include the side and rear yards on the ground floor, on the ground floor behind the front setback, on the 2nd, 3rd, 4th and 5th floors (balconies) and on the roof deck¹. In addition, although, outdoor living area on the ground floor of the building is proposed to be behind the front setback line, the 25-foot required front setback area shall not be used for outdoor living areas. The proposed project is required to provide 5,875 square feet modulation. The applicant is proposing to provide a total of 7,014 square feet modulation which is in excess of the required by Code for large scale buildings. The project design is proposed to use the allowed reduction in the required rear yard setback from fifteen feet (15') to ten feet (10') to offset the loss of usable floor area mandated by the additional modulation requirements for "large scale multiple residential developments" which translates to a multiple residential building with a width of one hundred feet (100') or more. The project as proposed is large enough that it would be subject to the above modulation requirements and could take advantage of the ten-foot rear setback.

ANALYSIS

The applicant has requested a time extension of the Development Plan Review Permit and R-4 Permit issued pursuant to Planning Commission Resolution No. 1393. The Tentative Tract Map (No. 063361) also accompanied the original project, however, the subject map has been submitted to the Los Angeles County for final Map process, and therefore, no extension of time is required.

The Planning Commission approved this 34 unit condominium project on September 28, 2005. According to BHMC Section 10-3-207 the exercise of rights granted with the approval shall be commenced within three years after adoption of the resolution. Three years after the adoption of Resolution No. 1393 is September 28, 2008. The Planning Commission may grant up to two 1-year extensions to the time limit, if an application is made at least thirty days prior to the expiration of the time limit. The applicant timely requested the time extension request on July 17, 2008, more than 30 days prior to the expiration of the permits. The applicant has requested to extend the time limit to

¹ The largest portion of the useable outdoor living space is proposed to be provided on the roof.

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exercise the Development Plan Review and R-4 Permit for a period of one year, to September 28, 2009.

The existing improvements on the subject site have been demolished. The applicant is in process to submit the structural plans to the City's Building and Safety Division and is currently revising the project plans to meet the requirements of the recently updated Building Code (CBC 2007) which substantially changed many building code requirements and was adopted by the City on January 1, 2008.

Beverly Hills Municipal Code Section 10-3-207 states that such extension may be granted after a duly noticed public hearing held pursuant to the same procedures applicable to the approval of the original application, if the reviewing authority determines that conditions and regulations affecting development in the city have not changed in a manner that would warrant reconsideration of the findings and decision made at the time of original approval. The public hearing was duly noticed (see below) and staff has concluded that conditions and regulations affecting development in the City have not changed in a manner that would warrant reconsideration of the original decision to approve the project. Staff considered the fact that the City has adopted a green building ordinance for construction of new buildings. The subject project's design was completed years ago and the building has already been reviewed and approved by the Planning and Architectural Commissions and it is getting ready to go through the City's building plan check process. It would be considered a hardship to require a project at this stage of development to meet the City's green building standards and this is reflected in the green building ordinance which exempts projects that have been submitted to the City for discretionary review and been deemed complete.

Staff recommends that it is reasonable to grant the one-year time extension requests for both the Development Plan Review and R-4 permits. If the time extension for the Development Plan Review and R-4 permit is not granted by the City, the applicant would be required to file new applications.

PUBLIC NOTICE

Notice of the proposed project and public hearing was mailed on September 12, 2008 to all property owners and residential tenants within a 300-foot radius of the property, and all single-family zoned properties within 500 feet (if any) from the exterior boundaries of the property. The hearing notice was also published in the *Beverly Hills Courier* on Friday, September 12, 2008 and the *Beverly Hills Weekly* on Thursday, September 18, 2008.

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ENVIRONMENTAL DETERMINATION

This project was previously assessed in accordance with the authority and criteria Contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines and a negative declaration was adopted.

RITA NAZIRI

Attachments:

Draft resolution approving a one-year time extension
Planning Commission Resolution No. 1393
Environmental Checklist
Notice of Public Hearing

CITY OF BEVERLY HILLS

**ENVIRONMENTAL CHECKLIST FORM
for Previously Environmentally Assessed Projects
(To be completed by Lead Agency)**

I. BACKGROUND.

- 1. Name of Project: 432 N. Oakhurst Drive
- 2. Project Address: 432 N. Oakhurst Drive
- 3. Type of Approval: Development Plan Review and R-4 Permit
- 4. Date of Original Approval: September 28, 2005
- 5. Approval Authority: Planning Commission

II. PROJECT & ENVIRONMENTAL STATUS.

Have any of the following conditions occurred since the project was originally assessed for environmental impacts?

Yes No

1. Changes to the Project?

(Skip if the answer above is "no".) Are the changes proposed to the project substantial ones which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects? (Explain answer on an attached page.)

_____ X

2. Substantial Change in Circumstances Under Which the Project is Undertaken?

(Skip if the answer above is "no".) Are the changes that have occurred with respect to the circumstances under which the project is undertaken substantial ones which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects? (Explain answer on an attached page.)

_____ X

Environmental Checklist Form of Extensions of Project Approvals
September 3, 2008

- | | <u>Yes</u> | <u>No</u> |
|--|------------|-----------|
| 3. <u>New information</u> of substantial importance has become available, in which: | | |
| a. The information was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, and | ___ | <u>X</u> |
| b. (Skip if the answer to 3.a. is "no".) The new information shows any of the following (explain the following answers on an attached page): | | |
| • The project will have one or more significant effects not discussed in the previous EIR or Negative Declaration? | ___ | <u>X</u> |
| • Significant effects previously examined will be substantially more severe than shown in the previous EIR?* | | <u>X</u> |
| • Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative? | | <u>X</u> |
| • Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR or negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative? | ___ | <u>X</u> |

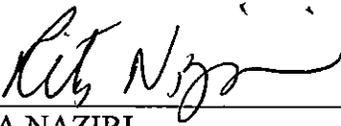
If "yes" is checked for questions 1., 2., or for both 3.a. and 3.b. above, then an environmental assessment application needs to be submitted and an initial study needs to be prepared. Based on the initial study, further environmental documentation will be prepared for the project. If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if the new initial study reveals a potentially significant,

* Applies only if an EIR was prepared; answer "no" if no EIR was prepared for the project.

Environmental Checklist Form of Extensions of Project Approvals
September 3, 2008

unmitigated impact. Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

Checklist prepared by:



RITA NAZIRI

September 3, 2008

ATTACHMENT

to

ENVIRONMENTAL CHECKLIST FORM
for Previously Environmentally Assessed Projects
(To be completed by Lead Agency)

The following are explanations of answers given on the Previously Environmentally Assessed Project ENVIRONMENTAL CHECKLIST FORM, under II. PROJECT & ENVIRONMENTAL STATUS.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS APPROVING TIME EXTENSIONS FOR APPROVED DEVELOPMENT PLAN REVIEW AND R-4 PERMIT FOR A THIRTY-FOUR UNIT RESIDENTIAL CONDOMINIUM LOCATED AT 432 NORTH OAKHURST DRIVE.

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

Section 1. On September 28, 2005, the Planning Commission approved Resolution No. 1393 approving Tentative Tract Map No. 063361, Development Plan Review and R-4 Permit for a thirty-four unit residential condominiums located at 432 North Oakhurst Drive (hereinafter the "Project").

Section 2. Pursuant to Section 10-3-207 of the Beverly Hills Municipal Code, the exercise of rights granted by Resolution No. 1393 approving a Development Plan Review and R-4 Permit shall expire if not exercised within three (3) years after the adoption of such resolution. Therefore, the three-year time period for exercise of rights would end on September 28, 2008. It should be noted that the Tentative Tract Map No. 063361 that accompanied the proposal has been submitted to the Los Angeles County for final map process; therefore, no time extension is required.

Section 3 Pursuant to Section 10-3-207 of the BHMC, the Planning Commission may grant up to two (2) 1-year extensions of the three-year time limit in any resolution granting a discretionary approval if an application is made at least thirty (30) days prior to the expiration of the time limit, or any extension thereof. The applicant timely filed a time extension request for the Development Plan Review and R-4 Permit on July 18, 2008, prior to September 28, 2008 expiration date.

Section 4. The Project was previously environmentally reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA guidelines (California Code of Regulations, Title 14, Section 15000 *et seq.*) and the City's environmental guidelines and a negative declaration was adopted.

Section 5. On September 25, 2008, the Planning Commission held a duly noticed public hearing to consider the request for an extension of the exercise of rights granted by Resolution No. 1393 approving a Development Plan Review and R-4 Permit. Evidence, both oral and written, was presented at said hearing.

Section 6. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

6.1 The time extension requests are consistent with the current Zoning Ordinance and the General Plan; and,

6.2 there have been no substantial changes to the Project.

Section 7. Based on the foregoing, the Planning Commission hereby approves extension of the exercise of rights granted by Resolution No. 1393 approving a Development

Plan Review and R-4 Permit for the period of one year, through and including September 28, 2009. The conditions set forth in Resolution No. 1393 shall remain unaltered.

Section 8. If this Resolution is invalidated for any reason, all rights granted under Resolution No. 1393 as to the Development Plan Review and R-4 permit shall lapse and expire and be of no further effect.

Section 9. 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 25, 2008

Noah Furie
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Anne Browning McIntosh, AICP
Interim Director of Community Development

David D. Gustavson
Director of Public Works and Transportation

RESOLUTION NO. 1393

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS ADOPTING A NEGATIVE DECLARATION AND CONDITIONALLY APPROVING TENTATIVE TRACT MAP NO. 063361, A DEVELOPMENT PLAN REVIEW PERMIT AND AN R-4 PERMIT FOR A THIRTY-FOUR UNIT RESIDENTIAL CONDOMINIUM STRUCTURE ON FOUR LOTS AT PROPERTY LOCATED AT 432 NORTH OAKHURST DRIVE

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

Section 1. The Umbrian Properties LLC, property owner (hereinafter referred to as the "Applicant"), has submitted an application for approval of Tentative Tract Map No. 063361, a Development Plan Review Permit and an R-4 Permit for front yard paving to allow construction of a proposed 89,385 square foot, 55-foot high, five-story residential condominium structure on four lots at property located at 432 North Oakhurst Drive (the "Project"). The Project will contain 34 units and will provide parking for 112 cars in a two-level subterranean parking garage.

Section 2. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines. The City prepared an initial study and, based on the information contained in the initial study, determined that there was no substantial

evidence that approval of the Project may have significant environmental impact. Accordingly, the City prepared a negative declaration in accordance with Section 15070 of the State CEQA Guidelines. Pursuant to Section 15074(b) of said Guidelines, the Planning Commission independently reviewed and considered the contents of the initial study and the negative declaration prior to deciding whether to approve the Project. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 3. On July 27, 2005 and August 24, 2005, the Planning Commission held duly noticed public hearings to consider the Project. Evidence, both written and oral, was presented at said hearings.

Section 4. Pursuant to the requirements set forth in Section 66474 of the California Government Code, in reviewing the application for Tentative Tract Map No. 063361, the Planning Commission considered the following issues:

1) Whether the proposed tentative tract map and the design or improvement of the proposed subdivision are consistent with the General Plan of the City;

- 2) Whether the site is physically suitable for the type of development and the proposed density;
- 3) Whether the design of the subdivision and the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
- 4) Whether the design of the subdivision or type of improvements are likely to cause serious public health problems and whether the design of the subdivision or the type of improvements will conflict with any public easements; and
- 5) Whether the discharge of waste water from the proposed subdivision into the existing sewer systems will result in a violation of existing requirements prescribed by the California Water Quality Control Board.

Section 5. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission hereby finds as follows with respect to Tentative Tract Map No. 063361:

5.1 As conditioned, the proposed Project and its design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "multi-family residential." The proposed Project will consist of a 34-unit residential condominium structure, and condominium developments are permitted by right under the General Plan land-use designation for the Project site.

5.2 As conditioned, the site is physically suitable for the type of development and the proposed density. The site is zoned R-4 and is currently developed with four, two-story apartment buildings. Under the current zoning designation, the Project site can be developed with a maximum density of 34 units; therefore, the development is within the Code-permitted density for the subject property. Because of the existing development on the site and the surrounding area, adequate public facilities exist to serve a 34-unit residential condominium structure. The project site contains sufficient area to meet all applicable development requirements, including but not limited to outdoor living area, parking, and set backs. Therefore, the project site is suitable for the type of development and density proposed.

5.3 As conditioned, the proposed Project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The Initial Study indicates that there will be no significant environmental impacts. Due to the urban location of the Project and the developed state of the Project site and vicinity, there are no fish or wildlife, or their respective habitats, in the vicinity of the Project site that could be potentially impacted by the proposed development.

5.4 The design of the subdivision and the type of improvements will not cause serious public health problems, and will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. The Project site will meet City health code standards. The Project will not encroach into any public easement areas.

5.5 The discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the California Regional Water Quality Board. The Project will be required to comply with all applicable

requirements of the City's Storm Water and Urban Runoff Pollution Control Ordinance and the City's current National Pollutant Discharge Elimination System ("NPDES") permit and, therefore, implementation of the Project will not result in a violation of existing requirements prescribed by the California Regional Water Quality Board. Implementation of the Project will not significantly increase the amount of impermeable land or result in changes in absorption rates that would increase the amount of stormwater runoff from the Project site. Accordingly, approval of the Project will not result in a violation of existing requirements prescribed by the California Regional Water Quality Board.

Section 6. In accordance with the provisions of Beverly Hills Municipal Code Section 10-3-3104, in reviewing the application for a Development Plan Review Permit, the Planning Commission considered the following issues:

- 1) Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;
- 2) Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;
- 3) Whether the proposed plan will significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property; and
- 4) Whether the proposed plan will create any significantly adverse traffic impact, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and whether the proposed plan will be detrimental to the public health, safety or general welfare.

Section 7. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission hereby finds as follows with respect to the Development Plan Review Permit:

7.1 As conditioned, the proposed Project and its design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "multi-family residential." The proposed Project meets Code requirements, particularly regarding use, height, density and parking and is consistent with the adopted General Plan of the City which designates this as a high-density, multiple-family residential area.

7.2 As conditioned, the proposed Project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The Project is consistent with development in the area as characterized by other five-story, luxury condominium developments adjacent to the Project site. The proposed Project will add new residential units to the overall housing stock of the City. The Project provides excess modulation facing Oakhurst Drive. As conditioned by this resolution, the Applicant will submit the Project design, including a detailed landscaping plan, for the review and approval of the Architectural Commission. Therefore, the Project is consistent and harmonious with the nature and type of development designated for the area in the General Plan.

7.3 As conditioned, the nature, configuration, location, density, height and manner of operation of the Project will not significantly and adversely interfere with the use and enjoyment of other residential properties in the vicinity of the subject property. The Project will

cast shadows to the north and east for some portion of the year, but these shadows are typical of a five-story development and will not significantly and adversely interfere with the use and enjoyment of other residential properties in the vicinity of the subject property. Therefore, the Project is compatible with other residential properties in the vicinity and will promote harmonious development in the surrounding neighborhood.

7.4 As conditioned, the proposed Project will not create any significant adverse traffic impacts nor vehicular or pedestrian safety or circulation problems. A traffic report prepared for the Project concludes that the proposed Project will generate an insignificant amount of new trips. The Project will provide 112 parking spaces on site in a two-level subterranean parking garage under the building, which is more than adequate to meet the anticipated parking demand that will be generated by the proposed use. As conditioned by this resolution, the garage driveways shall be marked to show entrance and exit, and guest parking spaces will be clearly marked. In order to reduce impacts to local traffic and parking during construction, the Applicant will be required to prepare and implement a construction management plan that includes a construction parking and hauling plan. Said plan will be reviewed and approved by the Director of Community Development or his designee to determine the amount, appropriate routes, and time of day of heavy hauling truck traffic necessary for demolition and deliveries to the subject site. Therefore, the Project will have no adverse traffic or parking related impacts on the neighborhood.

7.5 As conditioned, the proposed Project will not be detrimental to the public health, safety, or general welfare. The Project will be constructed in accordance with the City's

Building Code standards, and adequate open space living area has been provided as part of the Project.

Section 8. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission finds as follows with respect to the applications for R-4 Permits:

8.1 The Applicant has requested an R-4 permit to allow a walkway not to exceed ten feet in width at the building's entrance, on Oakhurst Drive. Pursuant to Beverly Hills Municipal Code Section 10-3-2813(d), the Planning Commission may permit the equivalent of one five-foot (5') wide walkway in the front setback area in any configuration for each fifty feet (50') of frontage along the front line of the subject property, provided the Commission finds the walkway is compatible with the nearby streetscape and with the scale of the surrounding development. The subject lot is 205 feet wide; therefore, a maximum ten-foot wide walkway is permitted if authorized by an R-4 Permit. A proposed ten-foot wide walkway will be compatible with the nearby streetscape because it will match the pattern of paved walkways along the front yards of surrounding properties. A proposed landscape plan in the front yard of the Project will provide a variety of planting materials and greenery to offset the paved area.

Section 9. Based upon the foregoing, the Planning Commission hereby adopts the Negative Declaration and approves Tentative Parcel Map No. 063361 and a Development Plan Review and an R-4 Permit for the Project, subject to the following conditions:

1. Except as modified by the conditions set forth hereafter, the Project shall be developed in substantial compliance with the plans submitted to and reviewed by the Planning Commission at its meeting on August 24, 2005.
2. Outdoor living areas shall not encroach into the front setback area.
3. Spa equipment shall not be installed within the required side yard setback area.
4. The Project design shall be subject to the review and approval by the Architectural Commission.
5. All parking spaces designated for guests shall be identified on the plans and shall be clearly marked in the garage with signage satisfactory to the Director of Community Development or his designee.
6. The Applicant shall clearly mark entry and exit lands on the driveway entrance with signage satisfactory to the Director of Community Development or his or her designee.
7. The Applicant shall install a flashing light or similar device at the entrance to the parking structure to warn pedestrians of an exiting vehicle. Said lighting shall be directed away from and shall be shielded to prevent "spillover" onto adjacent properties.
8. In accordance with the provisions of Section 10-2-704 of the Beverly Hills Municipal Code, prior to approval of the Final Map, the Applicant shall submit a copy of the proposed covenants, conditions and restrictions (CC&Rs) for the Project to the City Attorney for review and approval.
9. The Applicant shall submit a Construction Management Plan to the Department of Community Development for review and approval prior to issuance of a building permit. The Construction Management Plan shall include, at a minimum, the following:

- a. Written information about the construction parking arrangements, and hauling activities at different stages of construction to be reviewed and approved by the Engineering Division of Public Works and the Building & Safety Department.
 - b. Information regarding the anticipated number of workers, the location of parking with respect to schedules of the construction period, the arrangements of deliveries, hauling activities, the length of time of operation, designation of construction staging area and other pertaining information regarding construction related traffic.
 - c. The proposed demolition/construction staging for this Project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries, etc., to the subject site.
10. The Applicant shall maintain the site in an orderly condition prior to commencement of and during construction, including but not limited to, maintenance of the orderly appearance of existing structures and landscaping on the site, dust suppression for areas cleared by demolition, maintenance of safety barriers and adjacent public sidewalks, and provision of a contact person directly accessible to the public by telephone in the event that the public has any concerns regarding the maintenance of the site. The name and telephone number of the contact person shall be transmitted to the Director of Community Development and the Building Official. In addition, the Applicant shall post the name and telephone number of the contact person on the site in a location readily visible to the general public and approved by the Director of Community Development.

11. The Applicant shall protect all existing street trees adjacent to the subject site during construction of the proposed subdivision. No street trees shall be removed and/or relocated unless approval from the Department of Recreation and Parks is obtained. Removal and/or replacement, if approved, shall be accomplished in accordance with the requirements of the Recreation and Parks Department street tree mitigation plan regarding the removal and replacement of such trees. A copy of the street tree mitigation is attached hereto as part of Exhibit A and incorporated herein by this reference. Removal and/or replacement of any street tree shall not commence until the Applicant has provided the City with an improvement security, in an amount to be determined by the Public Services Director, and in a form approved by the Engineering Department and the City Attorney, to ensure satisfactory regrowth of any relocated or replacement street trees.
12. In addition to the conditions set forth in this Resolution, the Tentative Tract Map shall comply with all conditions required by the City's various departments, including but not limited to the conditions, if any, imposed by the Departments of Public Works, Engineering, Building & Safety, Fire and Police. A copy of the standard conditions from the Public Works/Engineering Department is attached hereto as Exhibit A and incorporated herein by this reference.
13. The Applicant shall secure all necessary permits from the Public Works Department and the Engineering Division prior to commencement of any demolition or Project related work.
14. Approval of this Project is subject to any and all other discretionary approvals required by the City for the Project and for the approval of the Tentative Tract Map.

15. Within three working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.
16. A cash deposit of \$10,000 shall be deposited with the City to ensure compliance with the conditions of this resolution regarding construction activities. Such deposit shall be returned to Applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten days of the notice; and (c) issue a stop work notice until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the Applicant timely requests a hearing, said deposit will not be forfeited until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice, and the deposit of an additional \$10,000, pursuant to the procedure set forth

herein above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited.

The requirements of this condition are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this resolution or the Beverly Hills Municipal Code.

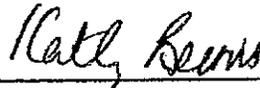
17. The conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the Project.
18. This resolution approving Tentative Tract Map No. 063361 and issuing a Development Plan Review and R-4 Permits (collectively the "Approvals") shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit.

The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the 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.

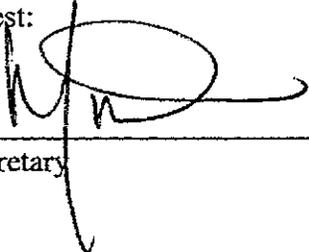
Section 10. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: September 28, 2005



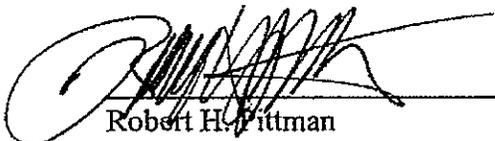
Kathy Reims
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:



Secretary

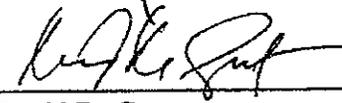
Approved as to form:



Robert H. Pittman
Assistant City Attorney

Approved as to content:



Mahdi Aluzri
Director of Community Development

David D. Gustavson
Director of Public Works & Transportation

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

I, MAHDI ALUZRI, Secretary of the Planning Commission and Director of Community Development (the "Director") of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1393 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on September 28, 2005, 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 Furie, Krasne, Marks, and Reims.
ABSENT: Commissioner Melamed.



MAHDI ALUZRI
Secretary of the Planning Commission/
Director of Community Development
City of Beverly Hills, California