

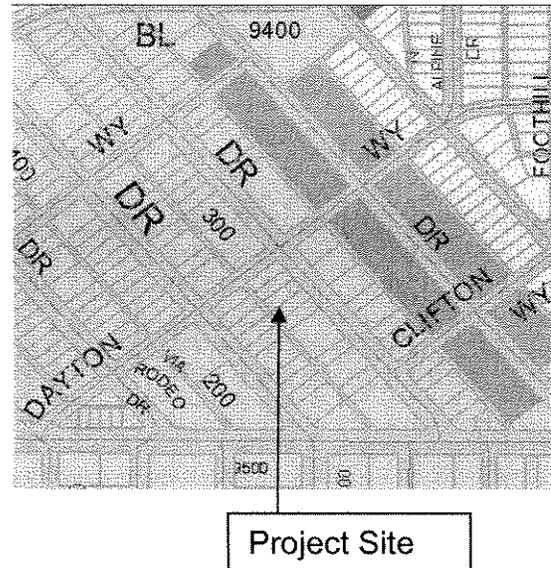


STAFF REPORT
CITY OF BEVERLY HILLS

**For the Planning Commission
Meeting of December 18, 2008**

TO: Planning Commission
FROM: Rita Naziri, Senior Planner
THROUGH: Jonathan Lait, AICP
City Planner

SUBJECT: Time extension request for a Development Plan Review originally approved on December 14, 2004 for construction of a three-story, 45,000 square foot medical office/retail commercial building located at **257 North Canon Drive**.



RECOMMENDATION

Staff recommends that the Planning Commission direct staff to prepare a resolution denying a request for a time extension for a Development Plan Review to construct a 3-story, 45,000 square foot medical/retail building located at 257 North Canon Drive.

EXECUTIVE SUMMARY

Murray Fischer, on behalf of property owners YLV, LLC and BFBH, LLC, (collectively "applicant"), has filed a request for a one-year time extension for a Development Plan Review for a property located at 257 N. Canon Drive. On December 14, 2004, the Planning Commission adopted Resolution No. 1357, conditionally approving a Development Plan Review ("DPR") Permit authorizing the construction of a new medical/retail building at the subject property. Such entitlements are valid for a period of three years, but the Planning Commission may grant up to two 1-year extensions. October 25, 2007, the Planning Commission approved a 1-year time extension, thereby extending the validity of the DPR Permit until December 14, 2008. The applicant now seeks a second and final 1-year time extension of the DPR.

If the time extension is granted, the applicant would have until December 14, 2009 in which to procure building permits for the construction of the medical/retail building.

If the request is denied, the approvals authorized under Planning Commission Resolution No. 1357 would expire and a new entitlement would have to be granted to allow the development of the subject property. Action by the Planning Commission may be appealed to the City Council.

Time extension requests are discretionary and may be granted if the reviewing authority determines that conditions and regulations affecting development in the city have not changed since the original approval. This extension request was filed in a timely manner.

BACKGROUND

Medical/Retail Building

On December 14, 2004, the Planning Commission adopted Resolution No. 1357, conditionally approving a Development Plan Review Permit to allow the construction of a 45,000 square foot, three-story medical office/retail commercial building with subterranean parking for 208 cars.

Pursuant to Beverly Hills Municipal Code Sections 10-3-3106 and 10-3-207, the exercise of rights granted by such approvals must be commenced within three years after adoption of the resolution. In this case, commencement of rights means procurement of a building permit. However, 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. On June 21, 2005, the applicant submitted an application for a building permit¹. That application expired on December 16, 2005 and the initial three year period in which to obtain a building permit for the medical/retail building was set to expire on December 14, 2007.

Prior to such expiration, on April 23, 2007, the applicant submitted an application for a 1-year time extension and on, October 25, 2007, the Planning Commission held a duly noticed public hearing and adopted Resolution No. 1491, extending the validity of the DPR until December 14, 2008. To date, the applicant has not submitted an application for a new building permit, but instead, on October 27, 2008, submitted an application for a second and final 1-year time extension of the DPR Permit.

¹ Prior to obtaining a building permit, an applicant must submit construction drawings, including architectural and structural details for review and approval by the City. If such plans conform to all applicable building and construction codes and the plans conform to those approved by the Planning Commission, a building permit may be issued to authorize such construction. Such applications are valid for six months, but may be extended upon application.

Residential/Commercial Mixed-Use Building

Although the requested time extension for the medical/retail building is the subject of this report, for discussion and background purposes, it is worth noting that alternative entitlement applications have been submitted to the City.

On October 9, 2007, the applicant submitted an application for a Development Plan Review Permit, General Plan Amendment, Zone Change and Tentative Map for a new mixed use project (retail/commercial/live/work). The proposed four-story, 64-foot in height building required a General Plan Amendment and Zone Change to allow greater height and more floor area than otherwise permitted within the C-3 Zone and also to allow residential use of the property. On October 11, 2007, the Planning Commission discussed this proposal as a Study Session Item. The minutes of that meeting (attached) indicate that a majority of the Commissioners concurred that residential may be an appropriate use at the subject property, although dissenting Commissioners stated that a residential use of the commercial property within the business triangle was not appropriate. A majority of Commissioners also expressed interest in the increased height, provided that appropriate step-backs and modulation were incorporated to soften the building's mass from the street. The mix of commercial and retail space was also well supported. Finally, the Commission directed the applicant to work with staff to explore opportunities to add additional parking to the building.

The applicant has advised that they do not wish to pursue this project. Staff has requested but has not received official documentation from the applicant requesting a withdrawal of this application.

Retail/Office Mixed-Use Building

On June 12, 2008, the Planning Commission held a second Study Session to discuss a conceptual development plan involving increased height and floor area, but no residential component. In light of the Commission's concurrent deliberations regarding updates to the City's General Plan, the Commission stated that any discussions about projects that may have higher height and density would be more appropriate after the General Plan Update process is complete.

As the completion of the City's General Plan Update Process has been extended beyond that contemplated at the June 12 meeting, the applicant submitted documents to the City including conceptual plans and a traffic study for a commercial/retail office building requesting a General Plan and Zone Change to allow additional height and floor area compared to existing standards on November 5, 2008. Staff has written a letter to advise the applicant as to what would be required to submit a formal application to the City for processing.

In summary, according to official Planning records, the following applications/entitlements are applicable to the subject property:

1. **MEDICAL BUILDING:** Development Plan Review Permit for a 3-story, 45,000 square foot Medical/Retail building (1-year time extension requested, otherwise entitlement expires on December 14, 2008);
2. **RESIDENTIAL/OFFICE/RETAIL MIXED-USE BUILDING:** Application for a General Plan Amendment, Zone Change and subdivision map for a 4-story, mixed-use building was submitted to the City on October 9, 2007. The application incomplete and the applicant has advised that they are not moving forward with this project. Staff seeks official documentation from applicant to withdraw the application.
3. **COMMERCIAL/OFFICE MIXED-USE BUILDING:** Documentation and information was submitted for a General Plan Amendment and Zone Change for a 5-story commercial/retail building with no medical and no residential uses. Staff has advised applicant materials needed to constitute a complete application and process the request.

ANALYSIS

The applicant requested a second and final time extension request to extend the time limit to exercise the rights to procure a building permit for a new medical/retail building for a period of one year through December 14, 2009. Beverly Hills Municipal Code Section 10-3-207 states that such extension may be granted 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.

Since approval of the project in 2004, the City has adopted new regulations, including:

- The Building Code (CBC 2007) has been updated which substantially changed many building code requirements. The City of Beverly Hills adopted an updated building code on January 1, 2008.
- The Green Building Ordinance is adopted by the City Council which is applicable to all new commercial and multi-family residential buildings.
- Loading standards were updated in 2005.

Should the Commission consider approving the request, it should be noted that any building permit obtained would have to comply with existing building codes, but compliance with changes to the City's Zoning Code (loading standards and Green Building Ordinance) would require specific conditions of approval.

In addition to formal changes to the City's codes, other issues may factor into the Planning Commission's deliberations regarding the subject request, including, economic considerations and the appropriateness of medical uses in the business triangle.

While not principally a Planning Commission issue, it is generally known that construction project financing is becoming increasingly more difficult with today's economy. According to the applicant, maintaining valid entitlements to build the subject retail/medical building is necessary to keep the project's funding available. While the applicant has articulated a desire to build a different project altogether, granting the extension would preserve the applicant's ability to develop the site as previously proposed, provided applicable building permits were obtained.

Notwithstanding any economic considerations, for the past several years the community has been engaged in an effort to establish a new General Plan. At times, when discussing the City's own economic conditions, the character of the business triangle and land uses generally, the dialogue has included questions regarding the appropriateness of medical uses in the business triangle.

In addition to being a high intensity use from a traffic and parking perspective, medical uses do not share an inter-industry synergy with the core businesses located within the triangle area. While retail patrons are likely to shop and dine and frequent several businesses within the triangle, medical patients are more likely attend an appointment without patronizing other businesses in the area.

Based on these land uses considerations and the community's ongoing dialogue regarding the appropriateness of medical uses in the business triangle, staff recommends the Planning Commission direct staff to prepare a resolution denying the requested extension.

On balance, staff does not support the expansion of medical uses within the business triangle area of the City because of the reasons discussed above and recommends that the Commission direct staff to prepare a resolution denying the request.

PUBLIC NOTICE

Notice of the request for a time extension and public hearing was mailed on November 28, 2008, to all property owners and residential occupants within 300 feet from the exterior boundaries of the property. In addition, the notice of the request for a time extension was published in the Beverly Hills Courier on Friday, November 28, 2008. As of the date of preparation of this staff report, no response from the public has been received.

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 the environmental regulations of the City, and a Negative Declaration were adopted. There have been no substantial changes to the project or to the environment that would cause the project to significantly impact the environment. Therefore, there is no substantial evidence that the approval of the requested extension may have any significant environmental impact, the original Negative Declaration and the conditions imposed continue to represent the independent judgment of the City, and no additional environmental review is required under CEQA.

RITA NAZIRI

Attachments:

Planning Commission Resolution Nos. 1357 & 1491
Letter from Murray Fischer dated October 24, 2008
Planning Commission Minutes dated October 11, 2007

Attachment 1

RESOLUTION NO. 1357

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
BEVERLY HILLS CONDITIONALLY APPROVING A
DEVELOPMENT PLAN REVIEW TO ALLOW CONSTRUCTION OF
A 45,000 SQUARE FOOT, THREE-STORY MEDICAL
OFFICE/RETAIL COMMERCIAL BUILDING AT PROPERTY
LOCATED AT 257 NORTH CANON DRIVE

Section 1. Cirrus Beverly Hills Partners, a Texas limited partnership and subsidiary of the Cirrus Group, owner, hereinafter referred to as the "applicant," has submitted an application for a Development Plan Review ("D.P.R.") for construction of a 45,000 square foot, three-story medical office/retail commercial building with subterranean parking for 208 cars at property located at 257 North Canon Drive ("Beverly Hills Medical Plaza"), hereinafter referred to as the "Project."

The proposed Project is located on a 22,500 square foot lot and will include a development of a ground floor retail component, and medical offices and an outpatient surgicenter on the second and third floors. North of the Project site on the west side of Canon Drive and east of the site across Canon Drive are a variety of older two- and three-story commercial retail/office buildings. The site and the parcels of land owned by the City to the south and southwest of the site are currently used as surface parking lots, and, in conjunction with additional private property closer to Wilshire Boulevard, is the site of the proposed Montage Hotel and Beverly Gardens/Parking Facility project.

The Project includes 8,046 square feet of retail occupancy, plus 2,798 square feet that can be used as either medical office occupancy or retail occupancy, and 72 square feet of

exterior retail as part of a drop-off/pick-up area. The Project will provide a 75-foot long loading area parallel to the alley that can accommodate single-unit trucks and delivery vans, as well as an exit aisle that assigns a curbside lane for drop-off/pick up and a through lane for unobstructed exiting. The main driveway from Canon Drive, on the north side of the Project, will accommodate both ingress to and egress from the site. Four levels of subterranean parking, with an additional fifth quarter-level of parking are proposed to accommodate the required 208 parking spaces. The Project design is European Revival, with modulation to break the mass of the building, principally in a setback defining an entrance plaza and the adjacent driveway.

The Project is consistent with the Beverly Hills Gardens Specific Plan and Montage Hotel (the "Specific Plan"), including the orientation of the Project's alley south-bound and the planned entrances and exits to the City's proposed subterranean parking structure. The inclusion of the Project's ground floor retail component, the design of the building, and the orientation of the garage entrances and loading area are also consistent with the Specific Plan.

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 impacts. 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 October 27 and November 22, 2004, the Planning Commission held duly noticed public hearings to consider the application. Evidence, both written and oral, was presented at said hearings.

Section 4. In considering the application for the development plan review, the Planning Commission evaluated the following criteria:

1. Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;
2. Whether the nature, configuration, location, density, height and manner of operation of the commercial development proposed by the plans will significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

3. Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area;

4. Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards; and

5. Whether the proposed plan will be detrimental to the public health, safety or general welfare.

Section 5. Based upon the evidence presented, including the staff report and written and oral testimony, the Planning Commission hereby finds as follows with respect to the D.P.R.:

5.1. As conditioned, the proposed Project is consistent with the General Plan of the City. The General Plan designates the property for commercial uses and specifically encourages retail uses in the Business Triangle area. As discussed in paragraph 1, above, the Project is also consistent with the Specific Plan. Therefore, the proposed Project will be harmonious with surrounding uses and consistent with the objectives of the General Plan.

5.2. As conditioned, the nature, configuration, location, density, height and manner of operation of the subject development will not significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property. The Project is located within the Business Triangle, which is a concentrated area of the commercial zone. It is anticipated that the proposed operations will not have a significant adverse effect on the use and enjoyment of the assisted living facilities on Clifton Way and on the west side of Crescent Drive,

or of the proposed residences in the adjacent specific plan area or the residential areas to the east of Crescent Drive.

5.3 As conditioned, the proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area. The density, height and scale of the Project will be within the allowable Code development standards. The density, height and scale of the Project will be characteristic of and compatible with both existing and proposed development in the surrounding area. The size of the ground floor retail use (8,000-10,000 square feet, with 85 feet of street frontage) will offset any perception of ambulatory uses and will enhance the streetscape, furthering the City's goal of maintaining a pedestrian-friendly street face and promoting harmonious development of the area. Therefore, the proposed Project will have no significant adverse effect on the scale or intensity of development in the surrounding area, as perceived from the street.

5.4. As conditioned, the proposed Project will not create any significant adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. The traffic study prepared for the Project concludes that implementation of the Project will not have a significant adverse impact on intersections and, accordingly, no traffic mitigation measures are necessary. The proposed Project will not create any significant adverse traffic impacts, hazards or pedestrian vehicle conflicts with the surrounding rights-of-way. As conditioned by this resolution, on-site traffic warning devices in the form of signage and signaling, for the purpose of reducing cross-traffic hazards at the juncture of the alley entrance and the main drive aisles, shall be reviewed and approved by the Department of Engineering and Transportation for adherence to the best management practice and incorporated into the building

plan prior to the issuance of permits for the Project. Therefore, the Project will not result in traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards.

5.5. As conditioned, the proposed Project will not be detrimental to the public health, safety and welfare. For the reasons discussed in paragraphs 5.1 through 5.4, above, implementation of the proposed Project will not result in any adverse impacts. In addition, prior to issuance of building permits, the Applicant will be required to prepare and implement a construction management plan satisfactory to the Departments of Engineering and Transportation and Community Services to ensure that all construction-related impacts are adequately mitigated. Therefore, the proposed Project will not be detrimental to the public health, safety and welfare.

Section 6. Based upon the foregoing, the Planning Commission hereby adopts the negative declaration and issues a Development Plan Review for the Project, subject to the following conditions:

1. The Project shall be constructed in substantial compliance with the plans submitted to and approved by the Planning Commission at its meeting of November 22, 2004.
2. Free on-site parking shall be provided to employees at all times.
3. Free validated parking shall be provided on-site to all patients and visitors to the medical facilities. The applicant shall require medical staff to advise all patients of the medical facilities of the availability of free validated parking for patients and visitors at the time an appointment is scheduled.

4. To ensure that patrons of the retail establishments in the Project utilize the parking provided on-site, parking rates for the Project parking structure shall not exceed the parking rates charged in the nearest City-owned parking facility.
5. No portion of the on-site parking shall be leased out to monthly parkers who do not work on-site.
6. The Applicant shall install and maintain at all times signage, satisfactory in form and quantity to the Planning Commission, advertising the availability of free validated parking for patients and visitors of the medical facilities. The signs shall be installed at the main driveway of the building on Canon Drive, and at such other locations as the Director of Community Development shall reasonably deem necessary.
7. The CUP granted by this resolution is expressly conditioned upon the Applicant annually submitting to the Director of Community Development a written statement designating the name and location of a licensed medical facility that has contractually agreed to accept emergency transfers from the medical facilities on the project site. The statement shall include the name and phone number for a contact person at the emergency medical facility who can confirm that they will accept patients from the project site and shall be accompanied by written evidence satisfactory to the Director to verify the arrangement and the obligation of the emergency medical facility to accept emergency transfers from the project site.
8. The Project shall be subject to the review and approval of the Architectural Commission.

9. During construction, not more than 1,160 cubic yards of soil, or the equivalent to approximately 94 fourteen-cubic-yard truck-hauls (round trip), shall be disturbed each day.
10. The project shall include a ground floor retail use of at least 8,000 to 10,000 square feet in size with a minimum street frontage of 85 feet. The ground floor retail use shall not be change to another use without the prior approval of the Planning Commission. The ceiling height for the ground floor retail space, as determined by the second floor plate height shall have a minimum vertical height of thirteen feet four inches (13' 4") and shall be used to display merchandise and/or wares for the retail user(s) of the space in a manner that contributes to the pedestrian feel of the surrounding commercial district.
11. During construction, not more than two pieces of diesel equipment (for example, one bulldozer and one tractor/loader/backhoe) shall be operated on the Project site on any given day.
12. On-site traffic warning devices, including signage and signaling, shall be provided for the purpose of reducing cross-traffic hazards at the juncture of the alley entrance and the main drive aisles. Prior to the issuances of permits, said devices shall be reviewed and approved by the Department of Engineering and Transportation for adherence to the best management practice and shall be incorporated into the building plan.
13. The Project shall comply with the applicable standard conditions and shall obtain all necessary permits from the Department of Engineering and Transportation. The Standard Conditions List is attached hereto as Exhibit A and incorporated herein by this reference.

14. The Applicant shall comply with the requirements of the street tree mitigation plan of the Recreation and Parks Department attached hereto as Exhibit B and incorporated herein by this reference.
15. The City shall monitor the operation of the Project at the site. The City expressly reserves jurisdiction with respect to traffic and parking issues. Should the business or activity conducted at the Project site change so that, in the opinion of the Director of Community Development, additional parking is required for the Project site in order to avoid significantly adverse traffic safety impacts, pedestrian vehicle conflicts, or parking impacts, then, regardless of the use at the site, additional conditions, including the requirement of providing parking spaces may be imposed upon the Project site by the Planning Commission pursuant to a public hearing noticed in accordance with the procedures set forth in Section 10-3-3307 of the Beverly Hills Municipal Code. Any decision of the Planning Commission in this regard may be appealed in the manner provided by Title 1, Chapter 4, of the Beverly Hills Municipal Code. This condition is in addition to the requirements set forth in Section 10-3-3315 of the Beverly Hills Municipal Code.
16. Construction related parking, staging and hauling shall conform to a construction parking, staging and hauling plan submitted by the applicant and approved by the City Engineer and the Director of Community Development. Construction related parking shall be prohibited on Canon Drive. The applicant shall provide to the City Engineer the proposed staging for demolition and construction of the Project so that the City Engineer

may determine the amount, appropriate routes, and time of day that heavy hauling truck traffic will need to travel to the subject site.

17. A cash deposit of \$5,000 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 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 \$5,000 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 \$5,000, 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.

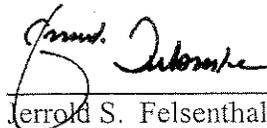
The requirements of this paragraph are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this resolution or the Beverly Hills Municipal Code.

18. The City reserves the right to make modifications and/or impose additional conditions which may become necessary to enable implementation of the specific conditions set forth in this resolution and the applicant, the owner and their heirs, representatives, successors and assigns shall comply with all such modified or additional conditions.
19. This Resolution approving a Development Plan Review 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's decision memorialized in this Resolution. 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 a Development Plan Review **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 Development Plan Review.
20. 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 permit.

21. 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.

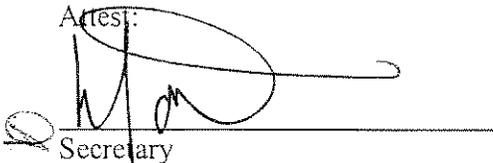
Section 7. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 12-14-04



Jerrold S. Felsenthal
Chairman of the Planning Commission of
the City of Beverly Hills, California

Attest:



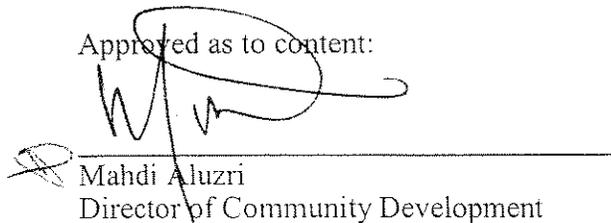
Secretary

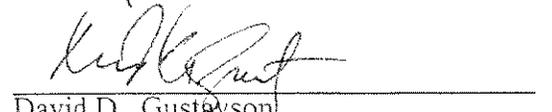
Approved as to form:



Robert H. Pittman
Assistant City Attorney

Approved as to content:



Mahdi Aluzri
Director of Community Development

David D. Gustavson
Director of Transportation and Engineering

EXHIBIT A

PUBLIC WORKS/ENGINEERING

STANDARD CONDITIONS

[INSERT STANDARD CONDITION LIST HERE]

EXHIBIT B

RECREATION AND PARKS DEPARTMENT

STREET TREE MITIGATION PLAN

RESOLUTION NO. 1491

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS APPROVING A TIME EXTENSION FOR A DEVELOPMENT PLAN REVIEW CONDITIONALLY APPROVING A 45,000 SQUARE FOOT, THREE STORY MEDICAL OFFICE/RETAIL COMMERCIAL BUILDING LOCATED AT 257 NORTH CANON DRIVE.

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

Section 1. On December 14, 2004 the Planning Commission approved Resolution No. 1357 conditionally approving a Development Plan Review for a 45,000 square foot, three-story medical office/retail commercial building with subterranean parking for 208 cars at 257 North Canon Drive (hereinafter the "Project").

Section 2. Pursuant to Section 10-3-207 of the Beverly Hills Municipal Code, the rights granted under this Development Plan Review expire if not exercised within three years of the date of adoption of Resolution No. 1357, unless extended by formal action of the Planning Commission. Murray Fischer, on behalf of YLV, LLC and BFBH, LLC, property owners, has timely filed a request for a time extension on April 23, 2007. The Planning Commission may grant up to two (2) 1-year extensions from the date of expiration upon application by the applicant. The Applicant seeks an extension to extend the expiration date from December 14, 2007 to December 14, 2008.

Section 3. The applicant is currently going forward with new plans for the project site which eliminate the medical uses and replace the previously entitled project with a proposed new mixed use development of retail, commercial office and live/work uses. A project preview of the proposed new project was presented to the Planning Commission at the Study Session meeting of October 11, 2007 and the project plans have gone through initial concept review with the various city departments. The applicant's rationale for applying for a time extension for the previously entitled project with medical uses is that more time is necessary to process the new plans and obtain entitlements on the proposed new project. However, reportedly without an active entitlement on the project site, the applicant would lose their financing and subsequent ability to pursue the new project

Section 4. 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 the environmental regulations of the City, and a Negative Declaration was adopted. There have been no substantial changes to the project or to the environment that would cause the project to significantly impact the environment. Therefore, there is no substantial evidence that the approval of the requested extension may have any significant environmental impact, the original Negative Declaration and the conditions imposed continue to represent the independent judgement of the City, and no additional environmental review is required under CEQA.

Section 5. On October 25, 2007, the Planning Commission held a duly noticed public hearing to consider the request for an extension of the approved Development Plan Review. 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 Conditions and regulations affecting development in the city have not changed in a manner that would warrant reconsideration of the findings and the decision made at the time of the original approval.

6.2 Except as otherwise described herein, there have been no substantial changes to the Project.

Section 7. Based on the foregoing, the Planning Commission hereby approves extension of the subject Development Plan Review for the period of one year, through and including December 14, 2008. The conditions set forth in Resolution No. 1357 shall remain unaltered.

Section 8. If this Resolution is invalidated for any reason, all rights granted under Resolution No. 1357 shall lapse and expire and be of no further effect.

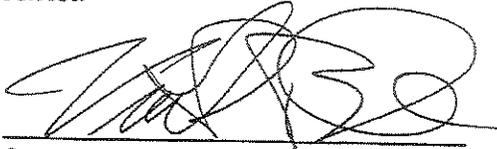
Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: October 25, 2007



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

Attest:



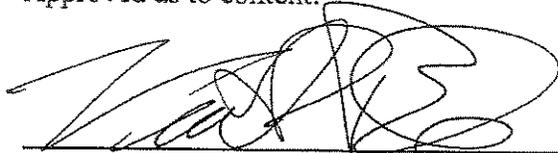
Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

Approved as to content:



Vincent P. Bertoni, AICP ^{AW}
Director of Community Development

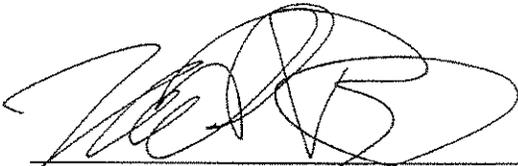


David D. Gustavson
Director of Public Works and Transportation

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

I, VINCENT P. BERTONI, Secretary of the Planning Commission and Director of Community Development of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1491 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on October 25, 2007, 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 Bosse, Cole, Marks, Vice Chair Reims, and Chair Furie.
NOES: None.
ABSTAIN: None.
ABSENT: None.



VINCENT P. BERTONI, AICP
Secretary of the Planning Commission/
Director of Community Development
City of Beverly Hills, California

Attachment 2

October 24, 2008

Ms. Ann Browning McIntosh, AICP
Director of Community Development
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

Re: 257 N. Canon Drive, Beverly Hills (Extension of DPR)

Dear Ms. McIntosh:

Please be advised that this law firm represents the owners of 257 N. Canon Drive project.

In or about December 2004, the City of Beverly Hills, approved a Development Plan Review Permit for a 45,000 sq. ft., 3-story medical office/retail commercial building under Resolution No. 1357.

In October 2007, the Planning Commission extended that Development Plan Review Permit up to and including December 14, 2008 under Resolution No. 1491.

By this letter, we hereby request that the City grant us a further extension for that Development Plan Review Permit up to and including an additional one year from December 2008 to December 2009. Said request is based upon numerous factors including 2 major factors. One is that the owner was under the impression that the City was going to enact a new general plan by December of this year, 2008. Based upon the information that was submitted to the owners and contained in parts of the city's draft general plan, it was understood that this area was being designated as an area to provide increased density and height for special projects. As such the developer instructed his architect to redesign the building eliminating the medical component and creating a building that would meet the definition of special building with increased height and density.

The architect in fact did redesign the building and the owner and his representatives have had numerous meetings with city staff with respect to the new design as well as a preview presentation in front of the Planning Commission.

In addition, one of the other major factors for the request was that in October of 2007 because the owner was not sure as to whether the general plan would be adopted in time or not, resubmitted his construction plans for the medical building including the plan corrections as determined by the Building and Safety, Attention: George Chavez. Approximately, 3 to 4 months later when the architect never received the revised medical building construction plans back, the architect then called the city's Building & Safety Department to find out that the plans had been lost by the City of Beverly Hills. Because these were the only set of plans that the owner obtained when he acquired this project, the owner was at a total disadvantage in that the owner had to renegotiate again with the previous architects and owner to obtain the original plans and corrections in order to get a new set to the City of Beverly Hills.

October 24, 2008

Page 2

Because the City of Beverly Hills felt that they would still rather see a new retail commercial building instead of a medical building at the site, the City encouraged the developer to continue on with its retail plans instead of spending additional monies on recreating the working drawings for the medical building. For your information what was submitted to the Building and Safety Department for the approved medical building was not only the architectural plans, but all of the mechanical plans including electrical, plumbing, structural and shoring plans. All which were created and corrected at a great expense.

However, here we are at the end of October 2008, the general plan has not been adopted, no one knows for certainty as to what elements will be included in the general plan, so therefore, the owner of this property has no other choice but to request that the medical approval of its DPR be extended for at least one additional year.

This will give the owner sufficient time to get comments and the plan corrections back from the City of Beverly Hills.

Further, it should be noted that the lender has stated to the owner of the property that should this extension not be granted, they will be left with no other alternative but to call in their loan on the property, as their loan was made predicated upon an approved 45,000 sq. ft. medical building.

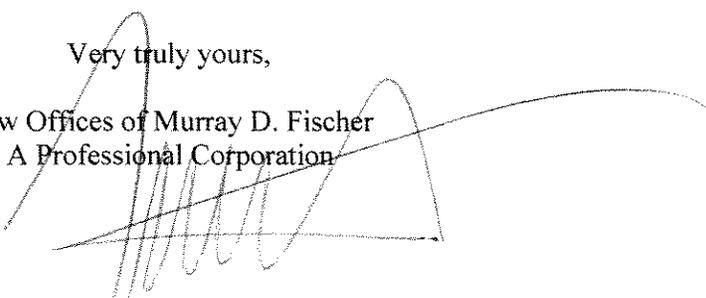
By extending the Development Plan Review Permit for one year, the city is not prejudiced in any manner as they will have the best of all worlds; (1) there will be a building built based upon the original approval, or (2) the general plan will become a reality and the proposed retail commercial building which is being designed to provide a pedestrian orientated feel for this Canon Block will become a reality.

Please find enclosed my client's check for the extension.

Should you have any questions pertaining to the contents of this letter, or need any additional items, please do not hesitate to contact this office.

Very truly yours,

Law Offices of Murray D. Fischer
A Professional Corporation



Murray D. Fischer

MDF/cam

cc: Marc Bohbot (via email – marc@thestandardoil.com)
Ron Goldman (via email – ron@gfarchitects.com)
Meedo Creisat (via email – meedo@thestandardoil.com)
Stephen P. Webb, Esq. (via email – swebb@twkglaw.com)

encl.

Attachment 3

**PLANNING COMMISSION / BOARD OF ZONING ADJUSTMENTS / PLANNING
AGENCY PUBLIC HEARINGS**

PROJECT PREVIEW

1. 257 North Canon Drive – Project Preview

Proposed 62,650 square foot mixed use building with retail, commercial and life/work lofts. Total height proposed is 64 feet (four stories plus a mezzanine). Proposal would require a General Plan and code amendment for increased FAR, increased height and residential use.

Associate Planner Millican provided a brief description of the proposed project and the requests that would be made by the applicant for additional height, the FAR, and residential uses within the C-3 zone. She then introduced Murray Fischer, representing the applicant.

Mr. Fischer introduced architect Ron Goldman who described the plans for the project. He noted that as a result of the concept review meeting and changes to ingress and egress, the parking would ingress from the street and egress to the alley. He stated the code-required parking would be standard size and there would also be approximately 20 additional compact spaces. Mr. Fischer reiterated that the building would be as green as possible and would provide extra parking that would be available to other businesses in the area,

A majority of the Commission concurred that mixed use would be appropriate at this location, adding to the pedestrian experience and a place where people could live and work. The Commission liked that a big portion is proposed as retail and office, would not change that, definitely no less retail/office than proposed. In terms of height, not opposed to the height presented. Like that it is stepped back from the street; the different heights and use of glass and open space provide to the feeling that it does not feel massive or a looming height. Looking beyond the building itself and the landscape of the street, it also blends into the streetscape. In terms of the FAR, don't have issue with 2.75. Would like to see the 5th level of parking added back, as we are creating more density, it will create more need. More vibrancy in the area will draw more people and have more need for parking. Dissenting Commissioners did not believe that residential was an appropriate use in the business triangle.

The Commission also indicated they were interested in exploring additional parking at this location and directed staff to work with the applicant to explore how this could be accomplished.

The meeting recessed at 5:35pm.