



STAFF REPORT
CITY OF BEVERLY HILLS

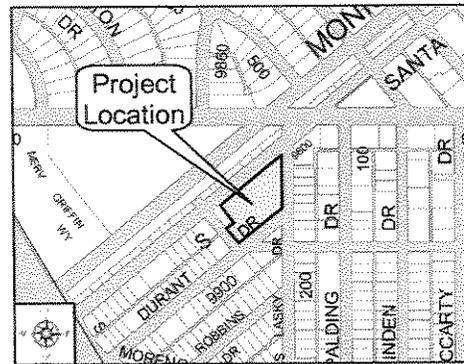
For the Planning
Commission Special
Meeting of
January 15, 2009

TO: Planning Commission

FROM: Ryan Gohlich,
Assistant Planner

THROUGH: Jonathan Lait, AICP
City Planner

Drawn for



SUBJECT: Application for amendment to an existing Conditional Use Permit (CUP) to allow an increase in the maximum permitted square footage for retail uses within an existing hotel located at 9882 South Santa Monica Boulevard.

RECOMMENDATION

It is recommended that the Planning Commission adopt the attached resolution, approving an amendment to the existing Conditional Use Permit (CUP).

EXECUTIVE SUMMARY

The applicant, David Maffit, representing the Belvedere Hotel Partnership, requests approval of an amendment to an existing CUP to allow an increase in the maximum permitted square footage for retail uses within an existing hotel. As conditioned in the existing CUP, the hotel is limited to a maximum of 300 square feet of retail uses. The proposed amendment to the CUP seeks to eliminate the 300 square foot cap on retail uses, and instead allow retail uses to be controlled by the limits established within the Beverly Hills Municipal Code (BHMC). In addition to amending the existing CUP, the proposed project includes expansion of existing operational facilities including an employee locker room, information technology room, and engineering room, all of which are located below ground. The operational expansion will displace required parking, which will be addressed by the applicant by leasing parking spaces currently reserved for, but unused by the City, within the project site.

The subject property is located within the Commercial (C-3) Zoning District in the Central Area of the City.

GENERAL INFORMATION	
Applicant	David Maffit, Architect representing the property owner
Designer/Contractor	CSA Architects
Project Owner	The Peninsula Beverly Hills
Zoning District	Commercial Zone (C-3)
Parcel Size	95,609 square feet (2.19 acres)
Permit Streamlining Act Deadline	March 29, 2009 (without time extension)

PROJECT DESCRIPTION

The subject site is located on approximately 2.19 acres of land within the City's C-3 commercial zoning district, and consists of approximately 186,000 square feet of hotel development. The site contains 314 parking spaces within a two-level subterranean parking garage for use by the hotel and the City's Parking Operations Division. A provision of a Development Agreement adopted by the City Council on January 21, 1986, which expires in the year 2016, requires that 66 of the 314 parking spaces be designated for use by the City.

The proposed project involves the expansion of existing retail spaces located on the building's first floor, and expansion of a subterranean employee locker room, engineering room, and information technology room. Expansion of the abovementioned facilities would increase the hotel's operational facilities by approximately 1,900 square feet.

The hotel's existing CUP limits retail uses to a maximum of 300 square feet. At some point in time the hotel's retail space was expanded beyond the 300 square foot maximum, and existing retail space totals approximately 550 square feet. The applicant proposes to convert an existing telephone room into retail space, which would add an additional 140 square feet of retail space to the hotel. As proposed, the total of all retail spaces would be approximately 690 square feet, requiring the proposed amendment to the existing CUP.

The proposed expansion of the subterranean employee locker room, engineering room, and information technology room is not restricted by the existing CUP. However, expansion of these operational facilities would result in the elimination of approximately 11 parking spaces from level one of the subterranean parking garage. As discussed above, the hotel provides a total of 314 parking spaces (4 more than the 310 spaces

required by the original CUP and Development Agreement), of which, 66 are designated for use by the City's Parking Operations Division. With the elimination of 11 parking spaces, the hotel would require 7 additional parking spaces (11 minus a surplus of 4). In order to comply with the parking requirements established in the CUP, the hotel would lease-back 7 of the existing 66 spaces from the City's Parking Operations Division. Currently, the City utilizes approximately 23 of the 66 parking spaces designated for City use, and the lease-back of parking spaces is not anticipated to impact existing operations. To further insure that existing operations are not impacted by the lease-back process, staff has recommended a project-specific condition of approval requiring the hotel to designate and maintain 20 fully accessible parking spaces for use by the City's Parking Operations Division. The leasing of spaces back from the City is an administratively-reviewed process controlled by the Parking Operations Division.

In addition to the requests currently before the Commission, staff is aware of additional facilities within the subject site that may not be in compliance with the original CUP. Areas of the hotel that may not be in compliance with the original CUP consist of dining and public meeting/banquet facilities. More specifically, the original CUP calls for fixed seating within restaurant spaces (which is not being met), and does not provide provisions for outdoor dining on the ground floor or roof-top terrace. Additionally, the original CUP restricts the maximum square footage of meeting/conference rooms, and the hotel's current configuration is known to exceed the established maximums. The applicant has stated its intent to submit an additional application with the purpose of remedying the existing nonconformities, and staff is actively working with the applicant to move this process forward. To date, there have been no complaints against the hotel for the known nonconformities. The lack of complaints can likely be attributed to the fact that the nonconformities have not intensified the use of the hotel, as they are considered to be appurtenant uses with the primary purpose of serving hotel guests and not the general public.

AREA CHARACTERISTICS

The subject property is surrounded on all sides by public rights-of-way, including Santa Monica and Charleville Boulevards, and Durant and Lasky Drives. The subject site is located within the C-3 zoning district (Commercial), and consists of 15 properties and a vacated alley that have been joined by lot ties. The subject site is approximately 95,609 square feet in area and is surrounded by existing commercial development and multi-family residential development.

ZONING ANALYSIS

Proposed Amendments to the Hotel's Existing CUP

1. Section 2.(4) of the hotel's original CUP (Planning Commission Resolution 417) shall be amended as follows:

(4) Retail uses shall not exceed a maximum of three hundred (300) square feet the maximum floor area for retail uses as established in Section 10-28.6 (Hotel Regulations) of the Beverly Hills Municipal Code, and shall have no exterior signage or entrance from any public street.

2. Section 3 of the hotel's original CUP (Planning Commission Resolution 417) shall be deleted in its entirety as follows, and all subsequent Sections shall be renumbered as appropriate:

~~*Section 3. The conditional approval of this proposed hotel project shall not be construed as approval of any matter not set forth in the plans submitted to the Planning Commission or which is not expressly set forth in this resolution; nor shall approval of this project be construed as approval of any matter which does not or will not conform with any law or regulation in effect at the time of issuance of any building permit for construction of any building or structure subsequent to granting this Conditional Use Permit.*~~

The purpose of deleting Section 3 from the original CUP is to allow for the proposed expansion of retail space and operational facilities, which were not expressly set forth in the Planning Commission's original approval, and do not conform to the original plans approved by the Planning Commission as specified in Section 3 of the original CUP.

3. Section 2.(5) shall be added to the original CUP as follows, and all subsequent Sections shall be renumbered as appropriate:

(5) All retail uses within the hotel shall be designed and continuously operated in a manner that qualifies said use as an Appurtenant Service Use as defined in Section 10-3-2861 of the Beverly Hills Municipal Code.

4. Section 2.(6) shall be added to the original CUP as follows, and all subsequent Sections shall be renumbered as appropriate:

(6) Prior to the issuance of a building permit and subject to final approval by the City Planner and Director of Parking Operations, seven (7) of the sixty-six (66) City-controlled parking spaces within the hotel's subterranean parking garage shall be leased back to the hotel to satisfy the parking requirements established

in Planning Commission Resolution 417. The lease shall be executed in a form and manner acceptable to the City Attorney's Office.

5. Section 2.(7) shall be added to the original CUP as follows, and all subsequent Sections shall be renumbered as appropriate:

(7) Prior to the issuance of a building permit and subject to final approval by the Director of Parking Operations, twenty (20) fully accessible parking spaces within the hotel's subterranean parking garage shall be marked for use by the City's Parking Operations Division. The 20 parking spaces shall be made available for City use at all times, and shall not be used by hotel employees or patrons.

Conditional Use Permit Findings

Pursuant to Beverly Hills Municipal Code §10-3-3800, the Planning Commission may grant or modify a Conditional Use Permit if the Commission makes the following finding:

The proposed location of any such use will not be detrimental to adjacent property or to the public welfare.

The proposed project is a request for an amendment to Section 2.(4) of the hotel's original CUP, which restricts retail uses within the hotel to a maximum of 300 square feet. As proposed, the amended CUP would eliminate the 300 square foot cap on retail uses, and would instead allow for retail uses to be controlled by existing regulations within the BHMC. As configured, the proposed retail uses would be classified as being appurtenant to hotel operations, meaning the retail spaces would primarily be intended for hotel patrons, and would generally not be frequented by the general public. Such appurtenant uses are not required by the BHMC to provide additional parking, and are not generally considered to intensify a building's primary use. Because expansion of the hotel's retail spaces would be appurtenant to hotel operations, the expansion will not intensify the hotel's current level of use and, therefore, will not be detrimental to adjacent property or to the public welfare.

PUBLIC NOTICE AND COMMENTS

Notice of the proposed project and public hearing was mailed on January 3, 2009 to all property owners within a 300-foot radius of the property from the exterior boundaries of the property. Additionally, notice was published in the Beverly Hills Courier on January 2, 2009. As of the date of the preparation of this report, no correspondence has been received.

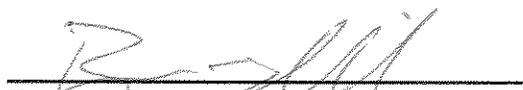
ENVIRONMENTAL DETERMINATION

The project has been reviewed pursuant to the California Environmental Quality Act (CEQA), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections

15000 et seq.), and the City's Local CEQA guidelines. Pursuant to the State CEQA Guidelines Section 15301 (a), minor alterations to existing commercial structures, a Class 1(a) Categorical Exemption has been issued, and the project has been determined not to have a significant environmental impact and is exempt from the provisions of CEQA.

RECOMMENDATION

Based on the foregoing analysis staff recommends that the Planning Commission approve the requested amendments to the hotel's existing CUP, and adopt the attached resolution.



Ryan Gohlich, Assistant Planner

Attachments:

1. Draft Planning Commission Resolution
2. Planning Commission Resolution 417 (approving the hotel's original CUP)
3. City Council Resolution 86-R-7270 (affirming the Planning Commission's approval of the hotel's original CUP)
4. January 21, 1986 Development Agreement between the City of Beverly Hills and the Belvedere Corporation

ATTACHMENT 1

Draft Planning Commission Resolution

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BEVERLY HILLS AMENDING AN
EXISTING CONDITIONAL USE PERMIT APPROVED
UNDER PLANNING COMMISSION RESOLUTION 417
FOR THE PENINSULA HOTEL LOCATED AT 9882
SOUTH SANTA MONICA BOULEVARD.

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

Section 1. David Maffit, Applicant, on behalf of the Belvedere Hotel Partnership, (collectively the “Applicant”) has submitted an application for an amendment to an existing Conditional Use Permit (CUP) approved under Planning Commission Resolution 417. The amendment to the existing CUP is intended to allow an increase in the maximum permitted square footage for retail uses within an existing hotel. As conditioned in the existing CUP, the hotel is limited to a maximum of 300 square feet of retail uses. The amendment to the CUP eliminates the 300 square foot cap on retail uses, and instead allows retail uses to be controlled by the limits established within the Beverly Hills Municipal Code (BHMC). In addition to amending the existing CUP, the Project includes expansion of existing operational facilities including an employee locker room, information technology room, and engineering room, all of which are located below ground. The operational expansion will displace required parking, which will be addressed by the applicant by leasing parking spaces currently reserved for, but unused by the City, within the Project site.

Section 2. The Project site is located on approximately 2.19 acres of land within

the City's C-3 commercial zoning district, and consists of approximately 186,000 square feet of hotel development. The site contains 314 parking spaces within a two-level subterranean parking garage for use by the hotel and the City's Parking Operations Division. A provision of Development Agreement 7-86, adopted by the City Council on January 21, 1986, requires that 66 of the 314 parking spaces be designated for use by the City.

The proposed project involves the expansion of existing retail spaces located on the building's first floor, and expansion of a subterranean employee locker room, engineering room, and information technology room. Expansion of the abovementioned facilities would increase the hotel's operational facilities by approximately 1,900 square feet.

The hotel's existing CUP limits retail uses to a maximum of 300 square feet. At some point in time the hotel's retail space was expanded beyond the 300 square foot maximum, and existing retail space totals approximately 550 square feet. The Project includes converting an existing telephone room into retail space, which will add an additional 140 square feet of retail space to the hotel. Therefore, the total of all retail spaces will be approximately 690 square feet, requiring the amendment to the existing CUP.

Expansion of the subterranean employee locker room, engineering room, and information technology room is not restricted by the existing CUP. However, expansion of these operational facilities will result in the elimination of approximately 11 parking spaces from level one of the subterranean parking garage. As discussed above, the hotel provides a total of 314 parking spaces (4 more than the 310 spaces required by the original CUP and Development Agreement), of which, 66 are designated for use by the City's Parking Operations Division. With the elimination of 11 parking spaces, the hotel requires 7 additional parking spaces (11 minus a surplus of 4). In order to comply with the parking requirements established in the

original CUP, the hotel will lease-back 7 of the existing 66 spaces from the City's Parking Operations Division. The City utilizes approximately 23 of the 66 parking spaces designated for City use, and the lease-back of parking spaces is not anticipated to impact existing operations. To further insure that existing operations are not impacted by the lease-back process, a new condition of approval requiring the hotel to designate and maintain 20 fully accessible parking spaces for use by the City's Parking Operations Division has been added as an amendment to the CUP. The leasing of spaces back from the City is an administratively-reviewed process controlled by the Parking Operations Division.

Section 3. Amendments to the hotel's original CUP (Planning Commission Resolution 417) shall be as follows:

1. Section 2.(4) of the hotel's original CUP (Planning Commission Resolution 417) shall be amended as follows:

(4) Retail uses shall not exceed a maximum of three hundred (300) square feet the maximum floor area for retail uses as established in Section 10-28.6 (Hotel Regulations) of the Beverly Hills Municipal Code, and shall have no exterior signage or entrance from any public street.

2. Section 3 of the hotel's original CUP (Planning Commission Resolution 417) shall be deleted in its entirety as follows, and all subsequent Sections shall be renumbered as appropriate:

Section 3. The conditional approval of this proposed hotel project shall not be construed as approval of any matter not set forth in the plans submitted to the Planning Commission or which is not expressly set forth in this resolution; nor shall approval of this project be construed as approval of any matter which does not or will not conform with any law or regulation in effect at the time of issuance of any building permit for construction of any building or structure subsequent to granting this Conditional Use Permit.

The purpose of deleting Section 3 from the original CUP is to allow for the proposed expansion of retail space and operational facilities, which were not expressly set forth in

the Planning Commission's original approval, and do not conform to the original plans approved by the Planning Commission as specified in Section 3 of the original CUP.

3. Section 2.(5) shall be added to the original CUP as follows, and all subsequent Sections shall be renumbered as appropriate:

(5) All retail uses within the hotel shall be designed and continuously operated in a manner that qualifies said use as an Appurtenant Service Use as defined in Section 10-3-2861 of the Beverly Hills Municipal Code.

4. Section 2.(6) shall be added to the original CUP as follows, and all subsequent Sections shall be renumbered as appropriate:

(6) Prior to the issuance of a building permit and subject to final approval by the City Planner and Director of Parking Operations, seven (7) of the sixty-six (66) City-controlled parking spaces within the hotel's subterranean parking garage shall be leased back to the hotel to satisfy the parking requirements established in Planning Commission Resolution 417. The lease shall be executed in a form and manner acceptable to the City Attorney's Office.

5. Section 2.(7) shall be added to the original CUP as follows, and all subsequent Sections shall be renumbered as appropriate:

(7) Prior to the issuance of a building permit and subject to final approval by the Director of Parking Operations, twenty (20) fully accessible parking spaces within the hotel's subterranean parking garage shall be marked for use by the City's Parking Operations Division. The 20 parking spaces shall be made available for City use at all times, and shall not be used by hotel employees or patrons.

Section 4. The Project has been environmentally reviewed pursuant to 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 environmental guidelines. A Class 1(a) Categorical Exemption has been issued pursuant to CEQA Guidelines Section 15301 (minor alterations to existing commercial structures) and the Project is not anticipated to generate any significant environmental impacts.

Section 5. Notice of the Project and public hearing was mailed on January 2, 2009 to all property owners and residential tenants within a 300-foot radius of the property. Additionally, notice of the Project and public hearing was published in the Beverly Hills Courier on January 2, 2009. On January 15, 2009 the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

Section 6. In considering the application for amendment to an existing Conditional Use Permit, the Planning Commission considered the following criteria:

1. Whether the Project will be detrimental to adjacent property or to the public welfare;

Section 7. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

As proposed, the amended CUP eliminates the 300 square foot cap on retail uses, and instead allows for retail uses to be controlled by existing regulations within the BHMC. As configured, the retail uses will be classified as being appurtenant to hotel operations, meaning the retail spaces are primarily intended for use by hotel patrons, and will generally not be frequented by the general public. Such appurtenant uses are not required by the BHMC to provide additional parking, and are not generally considered to intensify a building's primary use. Because expansion of the hotel's retail spaces will be appurtenant to hotel operations, the expansion will not intensify the hotel's current level of use and, therefore, will not be detrimental to adjacent property or to the public welfare.

Section 8. Based on the foregoing, the Planning Commission hereby approves the amendments to the hotel's original CUP (Planning Commission Resolution 417) as shown in Section 3 above. With the approved amendments, the hotel's CUP shall be subject to the following conditions of approval, which incorporate the abovementioned amendments, conditions of approval from Planning Commission Resolution 417, and conditions of approval from City Council Resolution 86-R-7270:

1. The Project not exceed a maximum of two hundred (200) guest rooms; and for purposes of this condition, each guest room shall be limited to a single keyed entrance.
2. Total aggregate capacity of all public meeting rooms shall not exceed sixty-five (65) persons.
3. All restaurant/bar uses shall be designed and constructed with fixed seating; shall not exceed the total aggregate capacity of one hundred forty-five (145) persons; and such facilities shall not have any entrance from, or sign facing, any public street.
4. Retail uses shall not exceed the maximum floor area for retail uses as established in Section 10-28.6 (Hotel Regulations) of the Beverly Hills Municipal Code, and shall have no exterior signage or entrance from any public street.
5. All retail uses within the hotel shall be designed and continuously operated in a manner that qualifies said use as an Appurtenant Service Use as defined in Section 10-3-2861 of the Beverly Hills Municipal Code.

6. Prior to the issuance of a building permit and subject to final approval by the City Planner and Director of Parking Operations, seven (7) of the sixty-six (66) City-controlled parking spaces within the hotel's subterranean parking garage shall be leased back to the hotel to satisfy the parking requirements established in Planning Commission Resolution 417. The lease shall be executed in a form and manner acceptable to the City Attorney's Office.

7. Prior to the issuance of a building permit and subject to final approval by the Director of Parking Operations, twenty (20) fully accessible parking spaces within the hotel's subterranean parking garage shall be marked for use by the City's Parking Operations Division. The 20 parking spaces shall be made available for City use at all times, and shall not be used by hotel employees or patrons.

8. The main entrance to the hotel shall be relocated on Santa Monica Boulevard, and the entrance shall be designed to adequately minimize interference with traffic flow on adjacent streets in a manner approved by the City Manager or his designee; and all costs related to traffic mitigation measures associated with the hotel, including a traffic signal if necessary, shall be borne by the Applicant.

9. The delivery and loading service area for the hotel shall be serviced from Lasky Drive.

10. Pedestrian entrances to the hotel shall be restricted to Lasky Drive and Santa Monica Boulevard.

11. Underground parking ventilation system shall not be located near the southerly boundary of the Project to minimize interference with residential uses in the Project site area.

12. Swimming pool and other outdoor activity areas shall not be used between the hours of 10:00 p.m. through 8:00 a.m.

13. Service vehicle delivery or loading shall be prohibited between the hours of 10:00 p.m. through 7:00 a.m.

14. Facilities for sanitation pick up shall be provided on-site, and shall be designed to minimize noise intrusion in residential areas.

15. All utilities presently located in the alley which is subject to vacation by City Council, shall to the extent permitted by the respective owners of such utilities, be relocated in the public right-of-way.

16. A minimum of two hundred forty-four (244) parking spaces shall be required; provided further, tandem parking is permitted, and a maximum of twenty-five percent (25%) of the required parking may be parking for compact automobiles.

17. Valet parking shall be provided continuously; parking rates shall not exceed the average of rates charged for parking within a one-half mile radius of the Project; restaurant patrons shall be provided with fully validated parking; and parking shall be provided on site for all hotel employees without charge to the employee.

18. The water system in the Project shall include measures to mitigate water consumption, including but not limited to the following: low-flush toilets; low-flow showers and faucets; insulation of hot water lines in water recirculating systems; to the extent feasible and consistent with design standards water pressure shall be reduced to 50 psi or less by means of pressure valves; flush valve operated water

closets at three gallons per flush; self closing valves on any drinking fountains; thermostatically controlled mixing valves for bath/showers; appropriate posting of water conservation measures; water conserving washers; and water conserving dishwashers equipped with retrofitting spray emitters; and subject to approval of Architectural Commission, low-water-consuming plants and other exterior landscape methods and system to minimize water consumption shall be provided.

19. Energy conservation measures shall be incorporated into the building design, including but not limited to the following: building glaze areas, overhang and landscaping shall be designed to maximize interior solar radiation during summer; to the extent economically feasible solar energy systems shall be an integral part of the Project design; thermal pane or tinted glazing shall be utilized to reduce cooling loads, with glazing areas minimized on wall portions receiving direct radiation during summer; waterflow restrictions on all showers and water taps; low wattage fluorescent lighting; automatic timed thermostats on furnace and central air conditioning units, installation of dimmer switches where feasible; and installation of manually controlled louvers or other insulated coverings on skylights.

20. Subject to approval by the Architectural Commission, the structure shall be of an aesthetic residential design compatible with the neighborhood, and landscaped on the exterior periphery of the hotel walls in a manner to minimize visual intrusion on existing residential uses; and provided further, such landscaping shall include mature trees, including replacement of existing trees irreparably damaged during construction, and shall be in place at the time of commencement of the hotel use.

21. Security personnel shall be provided on site on a continuous basis.

22. Fire safety equipment shall include but not be limited to the following: automatic fire sprinkling system throughout the structure, automatic and manual fire system (with voice capability) throughout the structure; wet and dry standpipe systems; emergency lighting (Class A generator) throughout plus emergency power for elevators, alarm systems, smoke removal systems, etc; emergency smoke removal capability of a minimum of six changes per hour; and fixed automatic fire extinguishing system for kitchen range vent hood exhaust systems.

23. Existing fire hydrant heads must be upgraded to 6"x4"x4"x2-1/2" size at the following locations: Hydrant Number 328 at N/E corner Santa Monica/Lasky; Hydrant Number 329 at S/E corner Santa Monica/Lasky; Hydrant Number 331 at N/E corner Santa Monica/Charleville; Hydrant Number 340 on Charleville Boulevard and alley intersection 120 feet south of Santa Monica Boulevard.

24. Construction activity mitigation measures including but not limited to the following shall be adhered to during the construction phase of the Project: Project site shall be adequately watered to minimize dust during construction; construction vehicles shall not be stored, parked, or occupy residential streets; and construction employee parking shall be restricted to on site; or at an off-site location approved by the City Manager or his designee and such employees shall be shuttled to the Project site during the construction phase.

25. Applicant shall dedicate to the City of Beverly Hills a strip of land six feet (6') in width, adjacent to Santa Monica Boulevard. Floor area ratio for the Project shall be based upon the site area as calculated prior to the dedication of the six foot strip of land. Height of any building on the site shall be measured from the highest point of the public sidewalk adjoining the site as that point presently exists.

26. The wall shall be set back a minimum of two (2) feet from the property line adjacent to Durant Drive and; provided further, an average of two additional feet of setback shall be maintained adjacent to Durant Drive, and this portion shall be landscaped and maintained in the manner designated by the Architectural Commission.

27. The Project shall substantially comply with the plans submitted to and reviewed by the Planning Commission at its meeting of January 15, 2009.

28. This resolution approving the Conditional Use Permit amendment 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 Planning & 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 Planning & 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/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

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

Attest:

Secretary

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

Jonathan Lait, AICP
City Planner



ATTACHMENT 2

**Planning Commission Resolution 417 (approving hotel's
original CUP)**

RESOLUTION NO. 417

RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BEVERLY HILLS APPROVING
A CONDITIONAL USE PERMIT FOR A HOTEL
DEVELOPMENT BY BELVEDERE CORPORATION.

WHEREAS, Belvedere Corporation has submitted an application for a Conditional Use Permit for a hotel development in that general area bounded by Santa Monica Boulevard (south roadway), Lasky Drive, Durant Drive, and Charleville Boulevard; and

WHEREAS, an Environmental Impact Report was prepared on the project and was duly processed through the Environmental Review Board; and

WHEREAS, the Planning Commission held a duly noticed public hearing as required by law and received oral and documentary evidence and has considered the application.

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

Section 1. The Commission finds that subject to the conditions imposed herein, and subject to approval of alley vacation by City Council, the proposed hotel use will not have a significant adverse environmental impact, and will not be detrimental to adjacent property or the public welfare, and further finds that the proposed hotel project will not significantly increase traffic congestion on commercial streets during peak traffic hours, and will not significantly increase traffic congestion on residential streets at any time.

Section 2. The Commission hereby grants a Conditional Use Permit for the proposed hotel project as submitted, subject to the following conditions and limitations:

(1) The project not exceed a maximum of two hundred (200) guest rooms; and for purposes of this condition, each guest room shall be limited to a single keyed entrance.

(2) Total aggregate capacity of all public meeting rooms shall not exceed sixty-five (65) persons.

(3) All restaurant/bar uses shall be designed and constructed with fixed seating; shall not exceed the total aggregate capacity of one hundred forty-five (145) persons; and such facilities shall not have any entrance from, or sign facing, any public street.

(4) Retail uses shall not exceed a maximum of three hundred (300) square feet, and shall have no exterior signage or entrance from any public street.

(5) The main entrance to the hotel shall be relocated on Santa Monica Boulevard, and the entrance shall be designed to adequately minimize interference with traffic flow on adjacent streets in a manner approved by the City Manager or his designee; and all costs related to traffic mitigation measures associated with the hotel, including a traffic signal if necessary, shall be borne by applicant.

(6) The delivery and loading service area for the hotel shall be serviced from Lasky Drive.

(7) Pedestrian entrances to the hotel shall be restricted to Lasky Drive and Santa Monica Boulevard.

(8) Underground parking ventilation system shall not be located near the southerly boundary of the project to minimize interference with residential uses in the project site area.

(9) Swimming pool and other outdoor activity areas shall not be used between the hours of 10:00 p.m. through 8:00 a.m.

(10) Service vehicle delivery or loading shall be prohibited between the hours of 10:00 p.m. through 7:00 a.m.

(11) Facilities for sanitation pick up shall be provided on-site, and shall be designed to minimize noise intrusion in residential areas.

(12) All utilities presently located in the alley which is subject to vacation by City Council, shall to the extent permitted by the respective owners of such utilities, be relocated in the public right-of-way.

(13) A minimum of two hundred forty-four (244) parking spaces shall be required; provided further, tandem parking is permitted, and a maximum of twenty-five percent (25%) of the required parking may be parking for compact automobiles.

(14) Valet parking shall be provided continuously; parking rates shall not exceed the average of rates charged for parking within a one-half mile radius of the project; restaurant

patrons shall be provided with fully validated parking; and parking shall be provided on site for all hotel employees without charge to the employee.

(15) The water system in the project shall include measures to mitigate water consumption, including but not limited to the following: low-flush toilets; low-flow showers and faucets; insulation of hot water lines in water recirculating systems; to the extent feasible and consistent with design standards water pressure shall be reduced to 50 psi or less by means of pressure valves; flush valve operated water closets at three gallons per flush; self closing valves on any drinking fountains; thermostatically controlled mixing valves for bath/showers; appropriate posting of water conservation measures; water conserving washers; and water conserving dishwashers equipped with retrofitting spray emitters; and subject to approval of Architectural Commission, low-water-consuming plants and other exterior landscape methods and system to minimize water consumption shall be provided.

(16) Energy conservation measures shall be incorporated into the building design, including but not limited to the following: Building glaze areas, overhang and landscaping shall be designed to maximize interior solar radiation during winter, and minimize solar radiation during summer; to the extent economically feasible solar energy systems shall be an integral part of project design; thermal pane or tinted glazing shall be utilized to reduce cooling loads, with glazing areas minimized on wall portions receiving direct radiation during summer; waterflow

restrictors on all showers and water taps; low wattage fluorescent lighting; automatic timed thermostats on furnace and central air conditioning units, installation of dimmer switches where feasible; and installation of manually controlled louvers or other insulated coverings on skylights.

(17) Subject to approval by the Architectural Commission, the structure shall be of an aesthetic residential design compatible with the neighborhood, and landscaped on the exterior periphery of the hotel walls in a manner to minimize visual intrusion on existing residential uses; and provided further, such landscaping shall include mature trees, including replacement of existing street trees irreparably damaged during construction, and shall be in place at the time of commencement of the hotel use.

(18) Security personnel shall be provided on site on a continuous basis.

(19) Fire safety equipment shall include but not be limited to the following: Automatic fire sprinkling system throughout the structure, automatic and manual fire system (with voice capability) throughout the structure; wet and dry standpipe systems; emergency lighting (Class A generator) throughout plus emergency power for elevators, alarm systems, smoke removal systems, etc; emergency smoke removal capability of a minimum of six changes per hour; and fixed automatic fire extinguishing system for kitchen range vent hood exhaust systems.

(20) Existing fire hydrant heads must be upgraded to 6"x4"x4"x2-1/2" size at the following locations: Hydrant Number 328 at N/E corner Santa Monica/Lasky; Hydrant Number 329 at S/E corner Santa Monica/Lasky; Hydrant Number 331 at N/E corner Santa Monica/Charleville; Hydrant Number 340 on Charleville Boulevard and alley intersection 120 feet south of Santa Monica Boulevard.

(21) Construction activity mitigation measures including but not limited to the following shall be adhered to during the construction phase of the project: Project site shall be adequately watered to minimize dust during construction; construction vehicles shall not be stored, parked, or occupy residential streets; and construction employee parking shall be restricted to on site; or at an off-site location approved by the City Manager or his designee and such employees shall be shuttled to the project site during the construction phase.

Section 3. The conditional approval of this proposed hotel project shall not be construed as approval of any matter not set forth in the plans submitted to the Planning Commission or which is not expressly set forth in this resolution; nor shall approval of this project be construed as approval of any matter which does not or will not conform with any law or regulation in effect at the time of issuance of any building permit for construction of any building or structure subsequent to granting this Conditional Use Permit.

Section 4. The Secretary of the Planning Commission shall cause this resolution and his certification to be entered

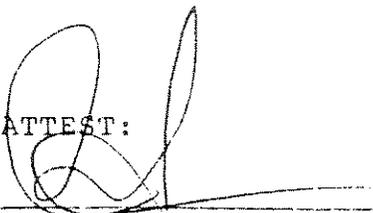
in the Book of Resolutions of the Planning Commission of this City.

Adopted April 22, 1985



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

ATTEST:



Secretary

Approved as to form
for the City Attorney



JOHN O'CONNOR
Assistant City Attorney

Approved as to content:



IRWIN RAPLAN
Director of Planning

wbelve

4/24/85

ATTACHMENT 3

City Council Resolution 86-R-7270 (affirming the Planning Commission's approval of the hotel's original CUP)

RESOLUTION NO. 86-R-7270

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS AFFIRMING THE DECISION OF THE PLANNING COMMISSION, AND IMPOSING ADDITIONAL CONDITIONS UPON GRANTING A CONDITIONAL USE PERMIT TO THE BELVEDERE CORPORATION FOR A HOTEL AT 9876 SANTA MONICA BOULEVARD.

WHEREAS, Belvedere Corporation, hereinafter referred to as "Applicant" has filed a Conditional Use application under Beverly Hills Municipal Code Section 10-3.2401 to permit construction of a hotel at 9876 Santa Monica Boulevard; and

WHEREAS, an Environmental Impact Report was prepared on this application and was duly processed through the environmental review procedure of the City; and

WHEREAS, the Planning Commission, after holding a duly noticed public hearing as required by law, granted, subject to certain conditions, a Conditional Use Permit to develop a hotel project under Resolution 417; and

WHEREAS, a timely appeal was then filed from the decision of the Planning Commission with the City Council, and

WHEREAS, the City Council held a duly noticed public hearing on January 7, 1986 on said appeal, at which time it considered the record of the proceeding before the Planning Commission, and reviewed and received additional documentary and oral evidence on the matter.

NOW THEREFORE, the Council of the City of Beverly Hills after consideration of all evidence presented, does hereby find and determine as follows:

Section 1. The decision of the Planning Commission under Resolution No. 417 in granting the Conditional Use Permit for construction of the hotel project is hereby affirmed, subject to the two additional conditions designated herein:

a) Applicant shall dedicate to the City of Beverly Hills a strip of land six feet (6') in width, adjacent to Santa Monica Boulevard. Floor area ratio for the project shall be based upon the site area as calculated prior to the dedication of the six foot strip of land. Height of any building on the site shall be measured from the highest point of the public sidewalk adjoining the site as that point presently exists.

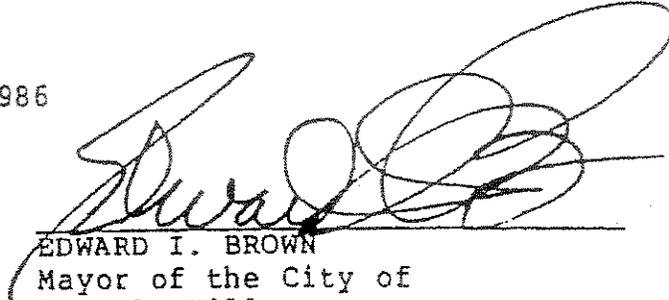
b) The wall shall be set back a minimum of two (2) feet from the property line adjacent to Durant Drive and; provided further, an average of two additional feet of setback shall be maintained adjacent to Durant Drive, and this portion shall be landscaped and maintained in the manner designated by the Architectural Commission.

Section 2. This Conditional Use Permit shall expire three (3) years from this date if construction has not been commenced on the project within this three (3) year period.

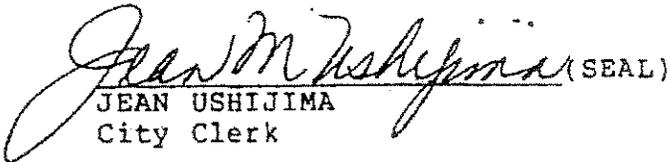
Section 3. The City Clerk shall furnish a copy of this resolution after it has been approved and fully executed by the City, to: Belvedere Corporation - Attn: L.F. Kempf, 11726 San Vicente Boulevard, Suite 360, Los Angeles, California 90049.

Section 4. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Council of this City.

Adopted January 21, 1986


EDWARD I. BROWN
Mayor of the City of
Beverly Hills

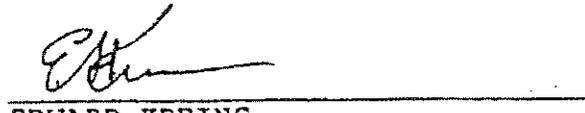
ATTEST:


JEAN USHIJIMA (SEAL)
City Clerk

Approved as to form
for the City Attorney


JOHN O'CONNOR
Assistant City Attorney

Approved as to content:


EDWARD KREINS
City Manager


MARK SCOTT
Director of Environmental
Services

(wjores86)

ATTACHMENT 4

**January 21, 1986 Development Agreement between the
City of Beverly Hills and the Belvedere Corporation**

86

159379

86-159379

ALSO - BELVEDERE HOTEL
CONTRACT NO.

7 - 86

JCC
8/9/91

AGREEMENT BETWEEN CITY OF BEVERLY HILLS,
BELVEDERE CORPORATION, AND MONT PELERIN
CORPORATION REGARDING PARKING, PUBLIC
IMPROVEMENTS AND ENCROACHMENTS IN CONJUNCTION
WITH DEVELOPMENT OF BELVEDERE HOTEL

FREE G

||

This agreement is made as of the 21st day of January 1986 by and among Belvedere Corporation and Mont Pelerin Corporation, both Netherlands Antilles corporations, authorized to do business in the State of California, hereinafter called "Developer," and the City of Beverly Hills, hereinafter called the "City" and relates to the following facts:

- A. Developer owns the following described real property:
 - Parcel 1: Lot 747 to 761 inclusive of Tract No. 7710 in the City of Beverly Hills, County of Los Angeles, State of California as per Map recorded in Book 83, pages 94 and 95 of Maps, in the Office of the County Recorder of said County.
 - Parcel 2: that portion of the alley 15 feet wide, as shown on Maps of Tract No. 7710, recorded in Book 83, pages 94 and 95 of Maps, bounded southwesterly by the southeasterly prolongation of the southwesterly line of Lot 747 of said Tract No. 7710, and bounded easterly by the southerly prolongation of the easterly line of Lot 754 of said Tract No. 7710, and said ownership is subject to an easement affecting Parcel 2 for a public alley over said land as shown and dedicated upon the Map of Tract No. 7710 recorded as aforesaid.

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
I MIN. 11 AM FEB 5 1986

- B. Developer is proposing to construct a hotel project on the site described in paragraph A. hereof, and approval of the project is presently pending before City Council.
- C. There now exists a shortage of public parking facilities in the vicinity of the proposed hotel project.
- D. The City and the Developer have agreed that if the Developer provides the City with the use of 66 parking spaces in the manner and on the terms and conditions hereafter set forth, the City will grant to the Developer certain encroachment rights on adjoining streets.

Now, therefore, in consideration of the covenants and mutual promises of the parties hereto, it is agreed as follows:

1. Developer will provide 66 parking spaces in addition to those required by the Hotel project on the site for City use in conjunction with the construction of the Hotel project.
2. City use of these spaces shall be subject to the following provisions:
 - (a) Developer shall construct said parking spaces on the site at its own expense.
 - (b) From the date that the Garage is open for the conduct of business and for sixty months thereafter the usage of the 66 spaces by the City shall be without charge.

86- 159379

- (c) Commencing with the 61st month following the opening of the garage for business, the City will pay to the Developer on a month-to-month basis the price the City charges for monthly parkers in the City's Crescent Drive "North" parking structure multiplied by the number of parking Identification Permits (hereinafter called "I.D.'s"), that are sold each month. The City may charge whatever fee it determines for these I.D.'s.
- (d) In the administration of the 66 I.D.'s by the City, the City would be permitted to oversell the 66 spaces by an amount up to 20%, provided that the oversell was not detrimental to the operation of the garage. If the oversold spaces were detrimental to the garage (by permitting more than 66 cars in the garage at any one time), then in that event the City will reduce the overselling practice to a level that would not be detrimental to the operation of the garage.
- (e) It is recognized that the garage is principally a private garage for the use of the Hotel's guests and employees and that therefore all parking is to be valet parking with the parker required to surrender his car to a valet attendant who will park the car. Accordingly, the City and the

Developer will work out an administrative arrangement whereby the City can have no more than 66 cars parked in the garage at one time. That arrangement shall include the use of an identification device, sticker, or pass card (I.D.) which shall be supplied to the City by the Developer, without cost to the City. The City may sell or distribute the I.D.'s in any manner it chooses and the City may charge for the use of the I.D.'s. The possession of the I.D. would permit the holder, on arrival at the Hotel, to deliver his vehicle to a valet attendant for parking, and on departure, to pick up his vehicle from the valet attendant without any charge for parking or tipping to the I.D. user. The I.D. user would have in and out privileges; however, no specific assigned parking spaces would be provided.

3. (a) The need for the additional parking spaces arises because existing structures in the adjacent area do not meet current parking code requirements and do not have sufficient parking to service their employees and customers thereby creating a deficiency in parking spaces. For the purpose of this paragraph, parking space deficiency is

86- 159379

defined as the difference between the number of parking spaces that exist on a site and the number of parking spaces that would be required on that site to meet the parking code in existence at the time of the redevelopment assuming that the prior use and the redeveloped use are identical. It is likely that the existing structures may be redeveloped sometime in the future and that as part of that redevelopment new parking spaces will be added to the existing inventory of spaces in the area. The addition of those spaces may obviate the necessity for the Hotel to continue to provide all, or a portion, of the 66 spaces. In order to anticipate a reduction in the Hotel's obligation, once every five years from the date a Certificate of Occupancy is issued for the garage facility, a review mechanism shall be instituted with a view to reducing or eliminating the 66 spaces, in the event non-conforming commercial property abutting either side of that portion of south Santa Monica Boulevard between the west side of Lasky Drive and extending westerly to the west City Limits on which no parking or inadequate parking presently exist,

and such properties are redeveloped to provide adequate parking. Such reduction shall be on a basis of reducing the Hotel's obligation by one parking space for each parking space that the deficiency is reduced by the redevelopment of the site.

- (b) In the event the Developer's obligation to provide the 66 spaces for the City's use is reduced or eliminated by virtue of the five year review mechanism, the number of spaces that are so eliminated from the Developer's obligation ("eliminated spaces") shall be offered to the City for the City's continuing use prior to the Developer offering those spaces to the general public. The City shall have the right to continue to use the "eliminated spaces" if it elects to do so by written notice to the Developer within thirty (30) days after the Developer notifies the City in writing it intends to offer those spaces to the general public. If the City elects to continue to use all or a portion of the "eliminated spaces" the right of use shall continue for as long as the City continues to pay for that use; however, if the City elects either not to continue to use all or any portion of the "eliminated spaces" or

...ils to pay for them then, on that event, the City shall forever lose the right to use the number of "eliminated spaces" that it either elects not to continue to use or fails to pay for. The rate to be charged to the City for the continued use of such spaces shall be at the lowest rate charged by the City for parking spaces in any City parking facility, and as that rate may be changed from time to time.

4. Developer's obligation to provide the parking designated herein shall be for the term designated in this agreement, or so long as the property is used for hotel purposes if such use is less than the term designated herein. Developer shall not have a credit for the parking spaces provided herein for the purpose of intensifying the uses on the property.

5. Developer agrees to indemnify, hold harmless and defend the City of Beverly Hills, its City Council and each member thereof, and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses, or actions resulting directly or indirectly from the wrongful or negligent actions of Developer's officers, employees, agents or others employed or engaged in providing the parking specified in this agreement.

6. If requested by the City, the Developer agrees to provide the reasonable and necessary costs for all site work in order to permit Durant Drive between Charleville and Lasky to be used as additional parking spaces in accordance with a drawing labeled "Scheme A." dated July 3, 1985, prepared

by Shepherd & Boyd Architects, a copy of which has been delivered to the City and which is on file in the Planning Department of the City, or in accordance with a scheme as modified by the Director of Transportation.

7. The Developer will arrange with the appropriate utility companies and pay the cost of relocating and re-routing all utilities that are required to be relocated or re-routed from the easement area described as Parcel 2 to a location outside of the easement area, all in accordance with the reasonable requirements of the City Engineer.

8. In order to accommodate the additional parking required, it is agreed that the City will grant to the Developer without charge, encroachment permits for the areas described on Exhibit A which is attached hereto and made a part hereof. The permits shall remain in force and effect so long as the structure is used for hotel purposes. During construction the encroachment permits shall permit surface entry. The Developer shall pay the cost of construction and any costs of relocating all utilities that are found in the encroachment area.

9. The covenants and burdens of this agreement shall be binding for 25 years from the date a Certificate of Occupancy is issued for the garage facility (after which time said covenants of the Developer shall be automatically extinguished (except as provided in paragraph 3 (b) hereof) and shall run with the property and each and every successive owner of the property, all as more fully described in California Civil Code Section 1468. A copy of this agreement shall be forthwith recorded with the Los Angeles County Recorder. In the event the Hotel and garage are destroyed or so

damaged that it would be impractical to rebuild the structure, Developer's obligation shall be extinguished.

10. This agreement is contingent upon the commencement of construction of the Hotel, in accordance with the terms and conditions of the Conditional Use Permit approved by the City January 21, 1986.

~~BELVEDERE CORPORATION~~

By

R. ZARNEGIN Secretary/Treasurer

~~MONT PELERIN CORPORATION~~

By

R. ZARNEGIN Secretary/Treasurer

THE CITY OF BEVERLY HILLS

By

EDWARD I. BROWN, Mayor of the City of Beverly Hills

ATTEST:

Jean M. Ushijima (SEAL)
JEAN M. USHIJIMA, City Clerk

Approved as to Content:

Approved as to Form:

Edward S. Kreins
EDWARD S. KREINS, City Manager

John O'Connor
JOHN O'CONNOR, Assistant City Attorney

Mark A. Scott
MARK A. SCOTT, Director of Environmental Services

PUBLIC AGENCY (CC 1191)

State of California, County of Los Angeles) SS.

On January 21, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared

EDWARD I. BROWN, known to me to be the MAYOR of the City of Beverly Hills, and known to me to be the person who executed the within instrument on behalf of said CITY OF BEVERLY HILLS, and acknowledged to me that such CITY OF BEVERLY HILLS executed the same.

WITNESS my hand and official seal.

(SEAL)



[Handwritten Signature]

86-159379

FO 1945 CA (8-74)

(Corporation)



STATE OF CALIFORNIA }
COUNTY OF Los Angeles } SS.

On January 23, 1986 before me, the undersigned, a Notary Public in and for said State, personally appeared R. ZARWEGIN, known to me to be the President, and

Treasurer Secretary of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

STAPLE HERE

[Handwritten Signature]
Signature



(This area for official notarial seal)