



**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

**For the Planning Commission  
Meeting of June 10, 2010**

**TO:** Planning Commission

**FROM:** Ryan Gohlich,  
Associate Planner *RG*

**THROUGH:** Jonathan Lait, AICP,  
City Planner *JL*



**SUBJECT:** A request for a Zone Text Amendment to Sections 10-3-2868 of the Beverly Hills Municipal Code regarding the seating capacity of restaurants in hotels outside the Business Triangle, a request to renew and modify a Conditional Use Permit that restricts hotel operations, a request to renew a Development Plan Review permit that allows outdoor dining and a rooftop gymnasium, a request for an Extended Hours Permit to extend the permissible hours of rooftop uses, and modification of an existing variance for the property located at **9360 Wilshire Boulevard**.

**RECOMMENDATION**

It is recommended that the Planning Commission direct staff to prepare a resolution recommending City Council approval of the proposed Zone Text Amendment and a resolution approving the requests for Conditional Use Permit, Development Plan Review permit, and Variance, but denying the request for Extended Hours Permit and increased rooftop occupancy.

**EXECUTIVE SUMMARY**

The applicant requests renewal of all existing entitlements and approval to expand upon and modify hotel dining and rooftop operations. The proposal includes added outdoor dining along Wilshire Boulevard (36 additional seats), added indoor dining at the first floor and mezzanine levels of the hotel (26 additional seats), increased rooftop occupancy from 92 persons to 195 persons, expanded rooftop hours from 1:00 AM to 2:00 AM, and a new stove within an existing rooftop food preparation room. These operational changes result in the need for a Zone Text Amendment, a Conditional Use Permit, an Extended Hours Permit, and modification of a previously issued Variance.

<b>GENERAL INFORMATION</b>	
<b>Applicant</b>	Mitch Dawson
<b>Project Owner</b>	Beverly Pavillion, LLC
<b>Zoning District</b>	C-3
<b>Permit Streamlining Act Deadline</b>	Not applicable to legislative actions

## **BACKGROUND**

The subject property was developed in the early 1960s, and although ownership has changed several times over the years, the property has always been used as a hotel. Development of the property was approved by the City Council pursuant to the issuance of a variance (Attachment 4) for increased height and floor area, and this development included a restaurant and rooftop pool. A condition of the variance limits the maximum floor area of restaurant and bar area to 1,500 square feet. In 2006 a Conditional Use Permit and Development Plan Review permit was granted by the Planning Commission (Resolution No. 1418, Attachment 3) to allow expanded rooftop uses including a larger pool deck, a bar/lounge area, a rooftop gymnasium, and a rooftop food preparation room. As a condition of approval, and to prevent detriment to the surrounding residential properties, rooftop occupancy was limited to 92 persons (excluding hotel staff) and rooftop hours were limited to 1:00 AM.

The work associated with these entitlements has been completed and is fully operational. However, a condition of approval imposed by the Planning Commission in 2006 called for the Conditional Use Permit and Development Plan Review permit to expire one year after the original issuance, unless a renewal was applied for and granted. The purpose for the one-year expiration was to provide the Commission with an opportunity to re-review the entitlements and make any modifications that might be needed in order to ensure that the project would function as the Commission had originally intended. The one-year expiration has since passed, and renewal of the entitlements must be granted in order for the hotel to continue current rooftop and outdoor dining operations. Because the applicant has submitted the subject application and renewal request, no action has been taken by the City to terminate the rooftop uses.

## **SITE CONDITIONS**

The subject site is located on the south side of Wilshire Boulevard, immediately outside the Business Triangle, in the City's C-3 commercial zone. The site area consists of 16,440 square feet, and is currently developed with an eight-story hotel (three levels are used for vehicle parking) that is approved for up to 114 guestrooms. The site is surrounded by commercial properties along Wilshire Boulevard, and multi-family

residential properties are located immediately north and south of Wilshire Boulevard. The multi-family residential properties typically vary between three and four stories in height, and are generally separated from the commercial uses along Wilshire Boulevard by a 15-20 foot alley.

**PROJECT DESCRIPTION**

As proposed, the project would renew the hotel's existing entitlements, allow additional dining areas, allow direct entry/access to the restaurant from Wilshire Boulevard, allow increased rooftop occupancy, allow increased hours of operation at the rooftop, and allow modification of an existing rooftop food preparation room so that a stove may be provided. The table below outlines the existing conditions and proposed changes within the hotel as they relate to the project.

<b>Zoning Information</b>		
	<b>Existing</b>	<b>Proposed</b>
<b>Use</b>	Commercial - Hotel	No Change
<b>Guestrooms</b>	114	No Change
<b>Height</b>	100 Feet (per 1961 variance)	No Change
<b>Parking</b>	118 spaces required	131 on-site and 250 off-site
<b>Rooftop Hours</b>	5:00 AM - 1:00 AM	5:00 AM - 2:00 AM
<b>Rooftop Occupancy</b>	92 persons	195 persons
<b>Restaurant and Bar Floor Area</b>	1,500 square feet (per original variance)	2,007 square feet
<b>Restaurant Seats</b>	102	156
<b>Outdoor Dining [no rooftop]</b>	500 square feet	926 square feet

**DISCUSSION**

The applicant seeks to renew and modify the approvals granted by the Planning Commission in 2006, which allowed for outdoor dining on private property and rooftop uses. There are three components associated with this project: 1) Renewal of existing entitlements; 2) Expansion and modification to existing dining and bar areas; and 3) Expansion and modification to the existing rooftop use. Each of these components is further discussed below.

***RENEWAL OF EXISTING ENTITLEMENTS***

In approving the outdoor dining and the rooftop uses in 2006, the Planning Commission required a yearly renewal. Specifically, Condition No. 11 of Planning Commission Resolution No. 1418 (Page 14 of Attachment 3) states that:

*...the City may extend the permits for additional one-year terms if the reviewing authority determines that the open air dining and the rooftop uses are operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, are abiding by the conditions imposed by the*

*Planning Commission, and are not creating an adverse impact on the surrounding area.*

Staff has reviewed the administrative record, conducted a site visit, and analyzed the previous approval and has determined that the open air dining and rooftop uses have been established consistent with the project previously approved by the Planning Commission. With respect to the outdoor dining, the exterior walls facing Wilshire Boulevard have been set back from the front façade approximately 12 feet and, although no restaurant is currently conducting outdoor dining within the approved area, it was previously maintained by Bond Street Restaurant and consisted of eight tables and 32 chairs, consistent with the approved project. The rooftop was approved to allow the establishment of a 1,817 square foot addition to the lower roof area comprised of a gym, men's and women's restroom facilities, and a service/prep room, a 2,000 square foot extension of the pool deck area and two trellis structures. The service/prep room was established to support the bar grill located at the northern portion of the lower roof. A site visit by staff on March 23, 2010 confirmed that these components have been established in accordance with the approved plans. Additionally, signage has been installed on the rooftop indicating a maximum capacity of 92 persons on the rooftop, as required.

In addition to regulating the size and location of these improvements, the Planning Commission imposed conditions of approval regarding the operational aspects of the outdoor dining and rooftop uses to protect the adjacent neighborhood. Staff has reviewed applicable Code Enforcement files and Police Department records regarding complaints involving the Thompson Hotel. A total of 38 complaints associated with the property (36 calls to the Police Department and 2 Code Enforcement cases) have been documented over the past two years. For comparison purposes, staff researched noise complaints at two similarly-sized hotels outside the Business Triangle (one with rooftop uses and one without) and discovered that each hotel had received two complaints or less over the past two years. The complaints from the Thompson are generally associated with loud music, parties or noise, and have predominantly been reported by properties within 200 feet of the hotel. No citations were issued in connection with these complaints, and 25 of the 36 calls to Police resulted corrective action being needed. There are currently no open code enforcement cases. The applicant has indicated that the manager/operator of the rooftop area for which these complaints were generated has been replaced as of mid 2009.

#### *DINING AND BAR AREA*

Indoor Expansion: The applicant seeks to increase the existing dining and bar area, both within the hotel and within the public right-of-way. The hotel is currently operating the restaurant/food service aspects of the operation since the departure of Bond Street and is seeking to establish a new restaurant operator. The existing approved indoor dining and bar area is 1,245 square feet. The project would add 762 square feet of indoor dining and bar area for a total of 2,007 square feet. As proposed, the existing indoor seating capacity would be increased from 70 to 88 persons. The added area is

primarily the result of existing, unpermitted dining and bar area located within the mezzanine level that totals approximately 762 square feet. It is unknown when this dining area was established, but it was not identified in the administrative record of the 2006 Planning Commission approval for the hotel. In addition to the proposed expansion of restaurant seating area, the proposal includes a new entrance on Wilshire Boulevard that would provide direct access to the restaurant.

Outdoor Expansion: A section of the Wilshire Boulevard frontage of the hotel has been setback 12-feet to create an outdoor patio area that is approved for up to 8 tables and 32 chairs. The proposed project would add a 426 square foot outdoor dining area within the public right-of way adjacent to the existing patio area with 11 tables and 36 chairs.

The amount of dining and bar area that the Thompson Hotel can provide is limited by the City's hotel regulations and the original variance which permitted the hotel's establishment. Current code provisions limit restaurant seating within hotels outside the Business Triangle to a capacity of not more than one seat per guestroom, which in this case, is 114 seats (the hotel's current configuration provides a total of 102 indoor and outdoor seats). Additionally, the 1961 Variance limited the amount of dining and bar floor area in the hotel to 1,500 square feet. As described below, the applicant requests approval of a Zone Text Amendment, an amendment to existing variance and modification of the existing Conditional Use Permit to allow the proposed restaurant expansion direct access to the restaurant.

## **ANALYSIS**

### *RENEWAL OF EXISTING ENTITLEMENTS*

The Thompson Hotel is required to seek Planning Commission approval for an annual renewal of its previously approved outdoor dining and rooftop uses to ensure they are operating according to approved plans without adversely affecting the surrounding area. The outdoor dining and rooftop areas have been established consistent with the approved plans and staff has not identified any code enforcement issues or complaints associated with the rooftop gym or the outdoor dining area and does not believe that renewal of these aspects of the hotel's operations are impacting the surrounding area.

Conversely, the rooftop operations have resulted in numerous complaints to the Police Department. These complaints have not resulted in citations, as it has generally been the City's policy to verbally alert hotel staff to the issue, and if compliance is achieved the case is closed. The Planning Commission's previous approval contained specific conditions related to the rooftop use to offset potential impacts to the surrounding area, including:

- Limiting rooftop occupancy;
- Prohibiting Live entertainment;

- Limiting the noise level of pre-recorded (DJ) music to not be audible beyond the hotel's property lines;
- Restricting the hours of operation of rooftop uses; and
- Reduced parking rates for non-hotel rooftop guests.

The number of complaints received over the past two years shows that the rooftop use may be disproportionately impacting nearby residents adjacent to this hotel as compared to other similar hotel operations. Further, it suggests that existing conditions of approval may not be adequate. In order to address noise issues, the applicant has indicated that manager/operator of the rooftop area has been dismissed. The applicant also directed the preparation of a noise study regarding rooftop uses and proposes the following additional conditions be added to the renewed entitlement:

1. All speakers located on the rooftop areas shall be installed at the base of the perimeter wall around the deck areas. Further, no speakers shall be permitted to be installed on the rooftop cabana and trellis structures.
2. Volume controls for the sound system shall be fitted with a locked cover to prevent tampering with the volume levels. Additionally, only hotel management shall be provided with access to the volume controls.

Establishing a new operator that understands the rooftop's potential for impacts to the adjacent neighbors along with the above conditions is anticipated to address noise impacts from rooftop activity. However, staff recommends that continuance of the existing rooftop use be extended for a 6 month period, subject to all previous conditions of approval, as well as the following new conditions, which are in addition to the recommendations of the applicant's noise consultant:

- All speakers within the premises shall be located in such a manner so as to direct all sound towards patrons and otherwise prevent the possibility of sound being plainly audible beyond the property line. Further, the sound levels shall be balanced with an equalizer that will allow for the attenuation of bass frequencies to limit noise from escaping beyond the perimeter walls.
- The applicant shall set up an initial sound demonstration for review by City staff once all modifications to the sound system have occurred to demonstrate compliance with all conditions of approval.
- The applicant shall mail or otherwise distribute Thompson Hotel management contact information to all property owners and residential occupants within 500 feet of the establishment, along with 24-hour contact information for dedicated security personnel.

- There shall be no dancing allowed on the rooftop area at any time, as dancing constitutes a “nightclub” under the City’s codes, and nightclubs are not permitted to operate outside the Business Triangle.
- The applicant shall submit a new application and the Planning Commission shall hold a hearing 6 months from the implementation of the above conditions to ensure that the use is not adversely impacting the surrounding area.

### *DINING AND BAR AREAS*

The applicant’s request to expand the indoor and outdoor dining areas of the hotel is not anticipated to result in impacts to the surrounding area. The project would add 762 square feet of indoor dining and bar area and increase the number of available seats from 70 to 88 persons. Outdoors, the proposal includes a 462 square foot area with capacity for up to 36 seats in addition to the 32 seats currently provided. Approval of this request would therefore result in a total of 156 indoor/outdoor seats.

Existing conditions of approval related to the hotel restaurant require valet parking at all times, reduced parking rates for non-hotel patrons, restrict entry along Crescent Drive for emergency use only and require that all vehicles exit the site onto Wilshire Boulevard after midnight. Staff further recommends that the hotel explore options for valet service along Wilshire Boulevard during dinner hours and that access onto Crescent Drive be further restricted beginning at 10:00 PM versus midnight. The hotel provides adequate parking for the proposed expansion and existing and proposed conditions of approval related to the restaurant use are anticipated to mitigate potential adverse impacts to the surrounding properties.

Dedicated Entrance from Wilshire: The hotel was previously prohibited from having direct access to the restaurant from Wilshire Boulevard. This restriction was in place because the restaurant use was previously considered to be appurtenant to the hotel use. Providing direct access to the restaurant from Wilshire Boulevard, as requested by the applicant, causes the restaurant use to no longer be considered as appurtenant and triggers a need for additional parking. As identified below, sufficient parking is provided both on- and off-site in order to accommodate the request for direct access to the restaurant from Wilshire Boulevard. Further, the valet parking operation, as well as existing parking restrictions on the surrounding residential streets, will prevent the restaurant from causing a parking impact.

Zone Text Amendment: The City’s hotel regulations limit the seating capacity of restaurants in hotels outside the Business Triangle to not more than one seat per guestroom. The applicant suggests that this provision restricts hotels located outside the Business Triangle and prevents them from being competitive with hotels inside the Business Triangle. The proposed amendment would modify the seating limitations to allow one and one-half (1.5) seats per guestroom.

The proposed amendment would modify Section 10-3-2868 C.3 as follows:

3. *The aggregate maximum capacity of all restaurants shall not exceed one and one-half (1.5) times the number of guestrooms in the hotel.*

This amendment would apply to all hotels located outside the Business Triangle (11 hotels exist today), and could potentially allow for a 50% increase in restaurant capacity beyond what could be permitted under the current code. The City's historic records are unclear as to how the current seating capacity limitations were arrived at, but the records that are available suggest that the limitation has to do with limiting special events and banquet facilities, which often generate concentrated impacts beyond what might be experienced during day-to-day hotel operations.

Staff has been unable to determine whether the current seating restrictions prevent hotels outside the Business Triangle from being competitive with hotels inside the Business Triangle as suggested by the applicant (Attachment 1). The table below identifies all hotels located outside the Business Triangle and provides information on each hotel's restaurant seating to guestrooms ratio. The data suggests (but is not conclusive) that hotels outside the Business Triangle generally do not require additional restaurant seating to be competitive, as the majority of hotels are not operating at the maximum capacities permitted under the current code; however, it is not unreasonable to assume that the individual needs of each hotel can vary significantly, and that there may also be a need to compete with hotels outside Beverly Hills.

<b>Hotels Outside the Business Triangle</b>				
<b>Name</b>	<b>Address</b>	<b>Rooms</b>	<b>Existing Restaurant Seating*</b>	<b>Restaurant Seating to Rooms Ratio</b>
Avalon Beverly Hills	9400 Olympic Blvd.	84	150	1.79 : 1
Beverly Hills Hotel	9641 Sunset Blvd.	204	160	0.78 : 1
Beverly Hilton	9876 Wilshire Blvd.	558	365	0.65 : 1
Beverly Terrace Hotel	469 N. Doheny Dr.	39	120	3.08 : 1
Beverly Wilshire Hotel	9500 Wilshire Blvd.	385	240	0.62 : 1
L'Ermitage	9291 Burton Way	117	60	0.51 : 1
Maison 140	140 Lasky Dr.	43	0	N/A
Mosaic Hotel	125 Spalding Dr.	49	45	0.92 : 1
Peninsula Beverly Hills	9882 S. Santa Monica Blvd.	212	190	0.90 : 1
Reeves Hotel	120 S. Reeves Dr.	32	Under Renovation	N/A
Thompson Hotel	9360 Wilshire Blvd.	114	102	0.90 : 1

\* The numbers displayed for existing restaurant seating are based solely on information obtained directly from the individual restaurant/hotel operators, and may or may not accurately reflect past entitlements or approvals.

Such an amendment would not serve as a carte blanche approval for expanded restaurant capacities throughout the City because any such expansion would be subject to a Conditional Use Permit reviewed by the Planning Commission on a case-by-case basis.

The amendment would provide for added flexibility and allow for operational changes to take place as markets change with time. Further, anytime restaurant space is added to a hotel, the space must be assessed to determine if it is appurtenant to the hotel or if it is primarily intended for use by the general public. Restaurant space that is intended for use by the general public is required to provide additional parking, and this requirement prevents hotels from expanding restaurant areas without providing adequate, code-complying parking. In the case of the subject property, additional parking is required and provided for the expanded areas.

Parking: The increase of the interior restaurant, bar and lounge area to 2,007 square feet represents a 507 square foot increase over what existing approvals otherwise allow for. The increase requires 11 additional parking spaces beyond the existing parking required for the hotel. The current hotel configuration requires 118 parking spaces, while 131 parking spaces are provided on-site, resulting in a surplus of 13 spaces. This surplus allows the hotel to accommodate the added requirement of 11 spaces for the new restaurant, bar and lounge areas in order to be in compliance with current code requirements.

In addition to the request to allow increased interior restaurant spaces, the applicant has proposed 426 square feet of outdoor dining area with the right-of-way adjacent to the existing patio dining. Section 10-3-3510<sup>1</sup> of the Beverly Hills Municipal Code allows for the reviewing authority to modify parking requirements for outdoor dining and bar uses if the reviewing authority determines that parking demand will be satisfied by other means. The applicant has submitted a lease agreement (Attachment 5) between the hotel and the owners of 100 North Crescent Drive (immediately across Wilshire Boulevard from the subject property). The lease agreement provides the hotel with 250 off-site parking spaces that are available daily from 6:00 PM to 2:00 AM, which would be sufficient to accommodate the 10 parking spaces required for the proposed outdoor dining area. The hotel's existing rooftop and restaurant operations have not resulted in any identified parking impacts. Because restaurant and rooftop activities associated with the hotel predominantly occur during evening hours, the proposed increase in dining capacity is not anticipated to result in any parking impacts during daytime operations.

A parking demand analysis has also been prepared by the applicant to assess the parking demand (versus code requirement) associated with all uses of the hotel,

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<sup>1</sup> BHMC §10-3-3510: "... upon application to the planning and community development department, an applicant may request that the reviewing authority establish different parking requirements for that area used for open air dining. The reviewing authority may establish parking requirements different than those parking requirements contained in section 10-3-2730 of this chapter if the reviewing ... determines that parking demand will be met by means other than those means specified in section 10-3-2730 of this chapter.

including the increased restaurant and rooftop occupancies (Attachment 6). Staff has reviewed the parking study and supports its conclusions. The parking analysis concludes that a maximum parking demand of 251 parking spaces would be needed to accommodate all proposed operations and a combined total of 381 on- and off-site parking spaces are available. This results in a parking supply that exceeds estimated parking demand by approximately 52%. Further, on-street parking is prohibited on the east side of South Crescent Drive, and a one-hour parking limit is enforced on the west side of South Crescent Drive, which prevents hotel patrons from parking in the residential neighborhood. Therefore, adequate parking for the increased bar and dining areas is provided by the hotel.

Variance: The hotel was originally approved in 1961 pursuant to a Variance issued by the City Council to allow increased height and floor area for the structure. One of the conditions of approval restricted the combined floor area of restaurant and bar areas to 1,500 square feet. The applicant proposes that this condition be stricken from the Variance to allow the proposed 2,007 square feet of restaurant and bar area. Although detailed information regarding the grounds for this condition no longer exists, a reasonable assumption is that this limitation was based on the layout of the hotel as submitted for review by the Council and the amount of parking to be provided. Because hotel operations have changed over the years to keep up with changing markets, it may be appropriate to review the current needs of the hotel and either strike or modify this condition. Such an action would not undermine the original approval, and the above discussions demonstrate that sufficient parking would be provided to accommodate any increase in restaurant and bar area.

#### *EXPANSION OF ROOFTOP USES*

The project includes a request for intensification of rooftop uses through increased occupancy and hours of operation. Existing approvals permit the rooftop areas of the hotel to be used between the hours of 5:00 AM and 1:00 AM and restrict occupancy to 92 persons. The applicant proposes to extend this timing for one additional hour to allow patrons to use the rooftop areas until 2:00 AM and increase occupancy to 195 persons. The applicant has submitted a noise study indicating that, with the additional conditions in place, the proposed expansion would not result in any noise impacts (Attachment 7).

In light of the complaints generated by late-night rooftop activities, staff recommends that a future review of the existing (92 persons, 1:00 AM restriction) rooftop uses be conducted after implementation of additional conditions to mitigate noise impacts from the roof. If the future review concludes that the use is not resulting in any impacts to the surrounding area, it would then be appropriate to consider an increase in activity levels on the roof.

#### *ENTITLEMENTS REQUIRED*

The proposed the entitlements before the Commission are more clearly outlined and discussed as follows:

1. **Zone Text Amendment:** The applicant requests an amendment to Section 10-3-2868 C.3<sup>2</sup> of the Beverly Hills Municipal Code. Current code provisions limit restaurant seating within hotels outside the Business Triangle to a capacity of not more than one seat per guestroom. The applicant seeks to add additional seating beyond this restriction, and is therefore seeking to amend this provision to allow the number of restaurant seats to be set at one and one-half (1.5) seats per guestroom. Specifically, the Zone Text Amendment would allow for the proposed number of seats within the subject property, and would also apply to other hotels outside the Business Triangle.
2. **Conditional Use Permit:** Pursuant to Section 10-3-2862<sup>3</sup> of the Beverly Hills Municipal Code, a Conditional Use Permit is required whenever existing uses within a hotel are modified/expanded, or if entrances to a hotel are modified. Subsequently, the applicant seeks to modify the existing Conditional Use Permit to allow increased restaurant/lounge space, a new entrance on Wilshire Boulevard to provide direct access to the restaurant space, increased capacity on the rooftop pool-deck and bar area, and modifications to the rooftop food preparation room.
3. **Development Plan Review:** A Development Plan Review permit was previously granted by the Planning Commission in 2006 (resolution No. 1418) to allow outdoor dining areas along Wilshire Boulevard (on private property) and at the rooftop bar/lounge area, and also included approval of a rooftop gymnasium for hotel guests and employees. Pursuant to Condition 11 of Planning Commission Resolution No. 1418, the Development Plan Review permit expired one year from the date of issuance and must be renewed.
4. **Extended Hours Permit:** Because the hotel is located outside the Business Triangle, an Extended Hours Permit is required whenever business operations take place outside the hours of 10:00 PM and 7:00 AM. The hotel currently provides service 24 hours per day; however, the rooftop pool-deck and bar area are currently prohibited from operating beyond 1:00 AM, pursuant to Condition 14 of Planning Commission Resolution No. 1418 (Attachment 3) in order to prevent impacts to the surrounding residential neighborhoods. The applicant requests that the Extended Hours Permit be modified to allow patrons within the rooftop pool-deck and bar area until 2:00 AM.

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<sup>2</sup> BHMC §10-3-2868 C.3: "The aggregate maximum capacity of all restaurants shall not exceed the number of guestrooms in the hotel."

<sup>3</sup> BHMC §10-3-2862: "...any new or relocated outdoor recreation or dining facilities, any relocation of public entrances to the building or any intensification of hotel use that would allow either a greater number of guests to reside at a hotel or would allow the total capacity of function rooms or areas to increase shall require the issuance of a conditional use permit."

5. **Variance:** Construction of the subject property was originally approved under a Variance granted by the City Council in 1961 pursuant to Resolution No. 3013 (Attachment 4). The Variance allowed for increased height and floor area beyond what was permitted by-right at the time the project was constructed. One of the conditions of approval within the Variance states that “the total floor area devoted to dining and bar use shall not exceed 1,500 square feet.” The requested expansion will exceed 1,500 square feet and the applicant seeks to strike this condition from the original Variance. Although detailed records of the original approval no longer exist, it is reasonable to assume that this limitation was based on the layout of the hotel as submitted for review by the Council and the amount of parking to be provided.

## **FINDINGS**

### **Zone Text Amendment**

The Planning Commission may recommend that the City Council approve the proposed Zone Text Amendment if the Commission is able to find that the amendment will result in a benefit to the following:

- 1) ***The public interest, health, safety, morals, peace, comfort, convenience, or general welfare.***

The proposed Zone Text Amendment will provide provisions for hotels located outside the Business Triangle to have restaurant seating occupancies that are set at a maximum of one and one-half times the number of guestrooms, rather than the current restaurant seating capacity of one per each guestroom. There is currently no such limit imposed on hotels located inside the Business Triangle. The amendment would provide added flexibility for those hotels outside the Business Triangle and would allow them to remain competitive with hotels located outside Beverly Hills. The amendment is not a carte blanche approval for hotels to increase restaurant capacities, and instead provides for an entitlement process (in the form of a Conditional Use Permit) by which additional seating could be requested. Each application would be reviewed on a case-by-case basis and findings would need to be made by the reviewing authority based on the merits of each application. Because the amendment allows for added flexibility and competitiveness of hotels outside the Business Triangle, and provides for discretionary review of all restaurant expansions on a case-by-case basis, the amendment serves to benefit the public interest, health, safety, morals, peace, comfort, convenience, and general welfare of both the business and residential communities.

### **Conditional Use Permit**

The Planning Commission may approve the requested Conditional Use Permit if the Commission is able to find as follows:

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

The renewal and amendment of the Conditional Use Permit, as conditioned, will result in hotel operations that are substantially similar to existing and previously approved hotel operations. Based on the operating history of the hotel, restaurant operations have not resulted in detriment to adjacent property or to the public welfare; however, rooftop uses have generated noise that has disrupted adjacent properties. As such, specific operational conditions imposed on the subject property as a part of this review will prevent future detriment to the area. Further, the conditions of approval require reassessment of the subject property six months from the implementation of the added conditions of approval.

In regard to the requested amendments to the Conditional Use Permit, the proposed increase in rooftop occupancy to 195 persons (excluding hotel staff) is anticipated to be detrimental to the surrounding area, as increased occupancy will result in increased noise levels. The current 92 person rooftop occupancy limit has generated noise complaints, and it is anticipated that the proposed 112% increase in rooftop occupancy would result in increased impacts to the surrounding neighborhood. Subsequently, until such time as the applicant is able to demonstrate that the rooftop uses are not resulting in noise complaints, the findings cannot be made to support an increase in rooftop occupancy.

In regard to the expansion of interior restaurant uses and providing direct restaurant access on Wilshire Boulevard, the proposal would result in a 507 square foot increase in restaurant, bar and lounge floor area. This is a 34% increase over previously approved restaurant uses; however, the increase is limited to interior areas only, and restaurant uses have been a component of the hotel since its construction in the 1960s. Sufficient parking would be provided to accommodate the requested increase, and a direct entrance to the restaurant on Wilshire Boulevard would be located along a commercial corridor. Because the proposed increase in restaurant uses is consistent with past operations and an access point would be provided along Wilshire Boulevard, rather than Crescent Drive, the proposed increase is not anticipated to be detrimental to adjacent property or the public welfare.

In regard to the added outdoor dining areas along Wilshire Boulevard, the proposal would result in a 426 square foot increase over current outdoor dining. The outdoor dining would be enclosed by a railing-type barrier, and would be limited to the Wilshire Boulevard side of the hotel, which is a

commercial corridor. The expanded outdoor dining area will help to enliven the streetscape, and is in the same general location as existing outdoor dining areas. Parking for the outdoor dining areas will be provided at 100 North Crescent Drive. For the reasons stated above, the outdoor dining areas will not be detrimental to adjacent property or the public welfare.

In regard to the installation of a stove in the existing rooftop food preparation room, the proposal is substantially consistent with existing conditions and will not result in any added floor area or noticeable change to operations. Further, the food preparation room is fully enclosed. Therefore, the addition of a stove to the existing facilities will not result in detriment to adjacent property or the public welfare.

### **Development Plan Review**

The Planning Commission may approve the requested Development Plan Review if the Commission is able to find as follows:

**1) *The proposed plan is consistent with the general plan and any specific plans adopted for the area.***

The proposed plan was previously reviewed for consistency with the general plan and any specific plans adopted for the area, and was determined to be in compliance. The proposal is for renewal of a previous approval, and does not change the previous findings.

**2) *The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.***

The proposed plan was previously found to promote harmonious development of the area and to not adversely affect existing and anticipated development in the vicinity. The proposal is for renewal of a previous approval, and does not change the previous findings.

**3) *The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.***

The proposed plan was previously found to not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property. However, noise complaints generated by rooftop uses at the subject property have adversely interfered with the use and enjoyment of residential properties in the vicinity of the subject property. Subsequently, additional operational conditions are required in order to prevent adverse impacts to surrounding properties. This approval

incorporates additional conditions, as well as a provision to reassess the subject property six months from the implementation of the added conditions. Therefore, the added conditions and future reassessment of the property ensure that the rooftop uses will not interfere with the enjoyment of residential properties.

**4) *The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.***

The proposed plan was previously found to create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards. The proposal is for renewal of a previous approval, and does not change the previous findings.

**5) *The proposed plan will not be detrimental to the public health, safety or general welfare, and will not result in:***

- a. Any significantly adverse parking impacts as a result of employee or patron parking demand;***
- b. Any significantly adverse impacts on neighboring properties as a result of the accumulation of garbage, trash, or other waste;***
- c. Any significantly adverse impacts on neighboring properties as a result of noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;***
- d. Any significantly adverse impacts on neighboring properties as a result of light and glare; and***
- e. Any significantly adverse impacts on neighboring properties as a result of odors or noxious fumes.***

The proposed plan was previously reviewed and determined to not create impacts related to parking, accumulation of garbage, noise, light and glare, or odors and fumes. Although these findings were previously made, noise complaints generated by rooftop uses at the subject property have demonstrated that the hotel does generate adverse impacts related to noise. Subsequently, additional operational conditions are required in order to prevent such noise-related impacts to surrounding properties. This approval for renewal incorporates additional conditions, as well as a provision to reassess the subject property six months from the implementation of the added conditions. Therefore, with the added operational conditions and future reassessment of the property, the project can be found to not adversely impact parking, accumulation of garbage, noise, light and glare, or odors and fumes.

### **Extended Hours Permit**

The Planning Commission shall grant an Extended Hours Permit if it finds that the extended hours operation will not substantially disrupt the peace, and quiet of the adjacent neighborhood as a result of any of the following:

**1) *The accumulation of garbage, litter, or other waste, both on and off of the subject site;***

The request for Extended Hours is related to rooftop uses only. Collection of garbage, litter, and other waste is carried out by hotel staff during regular operation of the rooftop areas. An increase in operating hours can be accommodated by existing resources and staff, and the proposal is not anticipated to result in the accumulation of garbage, litter, or other waste.

**2) *Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation;***

Noise complaints identified by staff are predominantly related to late-night rooftop operations at the hotel. Approximately 38 complaints have been received by the City over the past two years. This level of complaints is unacceptable, and further extending the hours of operation at the rooftop areas would exacerbate the situation. Therefore, extending the hours of operation would be detrimental to the surrounding neighborhood, and this finding cannot be made in support of the request at this time.

**3) *Light and glare;***

The proposed Extended Hours would not result in any added light and glare beyond what currently exists at the subject property, and the City has not received any complaints that would suggest that light and glare is impacting the surrounding neighborhood. Therefore, extending the rooftop hours of operation by one hour is not anticipated to create any adverse impacts related to light and glare.

**4) *Odors and noxious fumes;***

The proposed Extended Hours would not result in any added odors or noxious fumes beyond what currently exists at the subject property, and the City has not received any complaints that would suggest that odors and noxious fumes are impacting the surrounding neighborhood. Therefore, extending the rooftop hours of operation by one hour is not anticipated to create any adverse impacts related odors and noxious fumes.

**5) *Pedestrian queuing;***

The requested Extended Hours Permit is related to rooftop uses only, and the request is for one additional hour beyond current operations. Because

the request is related to rooftop activities, rather than ground-floor activities, no adverse impacts related to pedestrian queuing are anticipated to occur as a result of the project.

**6) *Crime or peril to personal safety and security;***

The requested Extended Hours Permit is related to rooftop uses only, and the request is for one additional hour beyond current operations. The request is related to rooftop activities, rather than ground-floor activities, and patrons of the hotel typically utilize the hotel's valet parking operation or park within the Business Triangle, as parking on the residential streets is regulated by permits. Because patrons are typically contained within the subject property and the request is for a one hour increase, the proposal is not anticipated to result in added crime or peril to personal safety and security.

**7) *Use of residential streets for parking which is likely to cause activity associated with the subject extended hours operation to intrude substantially into a residential area;***

Parking on residential streets in the vicinity of the subject property is regulated by permits and a one-hour time restriction for vehicles without permits, which prevents patrons from parking in these areas. Because the subject property is immediately adjacent to the Business Triangle, it is more likely that patrons not utilizing the hotel's valet services would park on the City's commercial streets rather than residential streets. Further, the parking demand analysis indicates that sufficient parking is available to accommodate all uses within the subject property without causing overflow onto adjacent streets. Therefore, the proposed project is not anticipated to result in adverse parking impacts and intrusion into residential areas.

**8) *Effects on traffic volumes and congestion on local residential streets; and***

The request for Extended Hours does not modify existing hotel operations or capacities. Further, the Extended Hours Permit would provide for an additional hour of operation until 2:00 AM. This time period (early AM) typically has lower traffic volumes (as compared to peak hours). Therefore, an operational increase of one hour is not anticipated to adversely impact traffic volumes and congestion on local residential streets.

**9) *Cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.***

The location of the subject property is along the Wilshire Boulevard commercial corridor. The corridor is primarily comprised of office buildings and retail stores that generally do not operate beyond 10:00 PM.

Therefore, the proposed project would not result in a concentration of extended hours operations within the vicinity of the subject property.

### **Variance**

The Planning Commission may approve the requested Variance if it is able to find that:

- 1) Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and**

The findings for the Variance were previously made by the City Council pursuant to Resolution No. 3013. The Variance was granted for the purposes of increased height and floor area, and not for the purposes of allowing restaurant and bar space. The proposal to modify the condition of approval regarding restrictions on restaurant and bar floor area does not alter the basis by which the findings were previously made for increased height and floor area. As such, the findings to allow increased height and floor area on the subject property can continue to be made and are unaffected by changes to restaurant and bar floor area.

- 2) Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.**

The Variance approved by the City Council pursuant to Resolution No. 3013 was previously determined to not constitute a grant of special privileges. The Variance was granted for the purposes of increased height and floor area, and not for the purposes of allowing restaurant and bar space. The proposal to modify the condition of approval regarding restrictions on restaurant and bar floor area does not alter the basis by which the findings were previously made for increased height and floor area. As such, the findings to allow increased height and floor area on the subject property can continue to be made and are unaffected by changes to restaurant and bar floor area.

### **PUBLIC NOTICE AND COMMENTS**

Notice of the proposed project and public hearing was posted in two newspapers of local circulation and was mailed on May 29, 2010 to all property owners and residential tenants within a 300-foot radius of the property. As of the date of preparation of this staff report, several comments have been received in opposition to the proposed project, and are provided as Attachment 2.

## **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, existing facilities, and Section 15305, minor alterations in land use limitations, the project qualifies for a Class 1(a) and Class 5 Categorical Exemption, and is not anticipated to have a significant environmental impact. The Class 1(a) exemption is applicable to minor interior modifications and operational changes within existing structures that would not result in a significant environmental impact, and the Class 5 exemption is applicable because the changes in land use limitations would result in minor modifications to the amount of restaurant space that could be provided within hotels. Further, any increase in restaurant space within hotels is subject to discretionary review and analysis on a case-by-case basis.

## **RECOMMENDATION**

Based on the foregoing analysis staff recommends that the Planning Commission direct staff to prepare a resolution recommending City Council approval of the proposed Zone Text Amendment and a resolution approving the requests for Conditional Use Permit, Development Plan Review permit, and Variance, but denying the request for Extended Hours Permit and increased rooftop occupancy. Further, staff recommends the following conditions of approval:

1. Expansion of the hotel restaurant capacity beyond 114 persons shall not become effective unless and until the proposed Zone Text Amendment regarding the capacity of restaurants in hotels outside the Business Triangle has been adopted by the City Council and has taken effect.
2. Condition d. of City Council Resolution No. 3013, which limits the total floor area of dining and bar uses on the subject property to a maximum of 1,500 square feet, shall be deleted in its entirety. Expansion of restaurant and bar floor area shall instead be controlled by the parking requirements contained in the Beverly Hills Municipal Code, and subject to review in accordance with the City's Conditional Use Permit processing standards.
3. Unless specifically modified by this Resolution, all conditions of approval contained in City Council Resolution No. 3013 shall remain in full force and effect throughout the life of the project.
4. Unless specifically modified by this Resolution, all conditions of approval contained in Planning Commission Resolution No. 1418 shall remain in full force and effect throughout the life of the project.

5. The maximum occupancy of all rooftop areas, excluding hotel staff, shall be limited to 92 persons unless and until the Planning Commission modifies this restriction at a future hearing.
6. Security personnel shall be stationed at the rooftop elevator lobby at all times. These personnel shall keep a separate tally of all persons accessing the rooftop areas and ensure that the maximum occupancy, excluding hotel staff, does not exceed 92 persons at any time.
7. Security personnel shall be stationed on the ground-floor of the hotel's valet parking area, adjacent to the alley, and shall prevent patrons from entering the alley after 10:00 PM. Patrons shall instead be directed to use the Wilshire Boulevard access points.
8. Use of all unenclosed rooftop areas shall be prohibited between the hours of 1:00 AM and 5:00 AM unless and until the Planning Commission modifies this restriction at a future hearing.
9. Outdoor dining areas located on the public right-of-way shall be limited to the north side of the building, which fronts on Wilshire Boulevard. Outdoor dining on the public right-of-way shall not be permitted to take place on the east side of the building, which fronts on South Crescent Drive.
10. The property owner of 9360 Wilshire Boulevard shall maintain a lease agreement with the property owner of the property located at 100 North Crescent Drive for the purposes of providing additional parking. Said lease agreement shall provide a minimum of 250 parking spaces at 100 North Crescent Drive for the exclusive use by the property located at 9360 Wilshire Boulevard between the hours of 6:00 PM and 2:00 AM, seven days per week. The lease agreement shall remain in place throughout the life of the project, and a copy of the agreement shall be furnished to the City upon request.
11. The subject property shall be required to maintain a minimum of 129 on-site parking spaces at all times.
12. All speakers located on the rooftop areas shall be installed at the base of the perimeter wall around the deck areas. Further, no speakers shall be permitted to be installed on the rooftop cabana and trellis structures.
13. All speakers within the premises shall be located in such a manner so as to direct all sound towards patrons and otherwise prevent the possibility of sound being plainly audible beyond the property line. Further, the sound levels shall be balanced with an equalizer that will allow for the attenuation of bass frequencies to limit noise from escaping beyond the perimeter walls.

14. Volume controls for the sound system shall be fitted with a locked cover to prevent tampering with the volume levels. Additionally, only hotel management shall be provided with access to the volume controls.
15. The applicant shall set up an initial sound demonstration for review by City staff once all modifications to the sound system have occurred to demonstrate compliance with all conditions of approval.
16. The applicant shall mail or otherwise distribute Thompson Hotel management contact information to all property owners and residential occupants within 500 feet of the establishment, along with 24-hour contact information for dedicated security personnel.
17. No live entertainment shall be permitted on the rooftop area at any time.
18. There shall be no dancing allowed on the rooftop area at any time, as dancing constitutes a "nightclub" under the City's codes, and nightclubs are not permitted to operate outside the Business Triangle.
19. The establishment shall provide access to Fire Department, Law Enforcement, and/or Code Enforcement Officers at any time.
20. In the event that the establishment violates or fails to comply with any of these conditions, the City may take action to cure such violation, including but not limited to, revocation of this permit.
21. The Planning Commission shall re-review this permit six months from the date of implementation of all conditions of approval to determine if the conditions contained in this approval are adequately minimizing disturbances to the adjacent residential properties. Additionally, during the Commission's re-review of this permit, the applicant may request that the Commission revisit the requested increases in rooftop operating hours and maximum capacity limitations.
22. Free parking shall be provided to hotel employees, including any consultants or agents retained by the hotel operator in connection with the operation of said facility, at all times.
23. The project shall be built in substantial conformance with the plans as conditioned and approved by the Planning Commission on June 10, 2010.



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Ryan Gohlich  
Associate Planner

Attachments:

1. Letter From Applicant Supporting Project
2. Letters From Residents Opposing Project
3. Planning Commission Resolution No. 1418
4. City Council Resolution No. 3013
5. Lease Agreement For 250 Off-Site Parking Spaces
6. Parking Demand Analysis
7. Rooftop Noise Study/Analysis

# ***ATTACHMENT 1***

***Letter From Applicant Supporting Project***

LAW OFFICES OF  
**DAWSON TILEM & GOLE**

**MITCHELL J. DAWSON**  
**JOSEPH N. TILEM**  
**GARY M. GOLE**

**9434 Wilshire Boulevard, Penthouse**  
**Beverly Hills, California 90212**  
**Telephone (310) 285-0800 / 273-3313**  
**Facsimile (310) 285-0807**

June 2, 2010

Chairperson Lili Bosse  
Beverly Hills Planning Commission  
City of Beverly Hills  
455 N. Rexford Drive  
Beverly Hills, CA 90212

**Re: Thompson Beverly Hills**

Chair Bosse and Honorable Members of the Planning Commission.

The undersigned represents Thompson Beverly Hills with regard to applications before the Planning Commission for the following:

1. Extension of existing Conditional Use Permit;
2. Increased open air dining on Wilshire Boulevard;
3. Text amendment to allow an increase in the aggregate capacity of restaurant space beyond the existing limitation (number of guestrooms);
4. Striking a condition of the existing variance of 40+ years to allow greater than 1500 square feet of bar and dining;
5. Increased rooftop occupancy;
6. Allowance for entrance to restaurant on Wilshire Boulevard;
7. Extended hours for rooftop.

**HISTORY**

Upon opening of the hotel as Thompson Beverly Hills, Bond St. Restaurant became the operator of the restaurant which included the ground level restaurant, the patio (ground level outdoor dining), room service and rooftop services including the bar, room service and other food and drink amenities to the pool area and rooftop uses.

Bond St. failed economically and as hereafter discussed, failed to comply with appropriate standards of use.

Bond St. (Los Angeles) is out of business and has not been part of Thompson Beverly Hills for at least seven months. During this time period there has been just one complaint on March 13, 2010, which was classified by the Police Department "CKOK" which is the lowest level of call-in (+) and reflects, as per the Police Department, "showed up - no problem - no police action required".

Chairperson Lili Bosse

June 2, 2010

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Presently, Thompson Beverly Hills is operating the restaurant but is not a restaurant operator and thus no lunch is being served at this time.

There are two very viable and seasoned restaurant operators that wish to take on the responsibility of running the restaurant and all the other attendant services previously noted. Thompson Beverly Hills and each prospective restaurant operator find it absolutely necessary for economic benefit and to be competitive, to have a Wilshire Boulevard presence so that people even know the restaurant exists. It is clear from definition of the Beverly Hills Municipal Code, that the restaurant is not an ancillary use and thus the prohibition as to a Wilshire Boulevard entrance is not applicable. This issue has been discussed on multiple occasions between staff and myself.

In order to be competitive, an outdoor dining experience is necessary which would include an entrance and visual separation from the hotel on Wilshire Boulevard.

It is difficult at best for a restaurant to function without its own presence. This is added to the fact that presently the entrance is through a driveway and then through a lobby to the restaurant area. It is simply not conducive for a viable restaurant.

Due to the mismanagement of the rooftop by Bond St., complaints did arise and occurred mostly during 2008 and the first half of 2009 related almost exclusively to loud music, not noise caused by persons on the rooftop. It is asserted that those complaints are somewhat dated and due to a prior operator.

In addition to the above, there have been unsubstantiated complaints and in numerous instances they were with regard to a valet driver, persons exiting the premises at grade level, and a generator on the ground level. Also one indicated "may have been paparazzi fleshing out the celebrities". None of those issues have anything to do with entitlements requested and lessen the number of actual music complaints.

### **REMEDIAL STEPS TAKEN**

Thompson Beverly Hills has already taken significant steps to correct issues of loud music that existed in large part if not totality due to the mis-operation of Bond St.:

1. A lockbox has been put in place on the rooftop which controls the sound mechanism of any and all "piped in" music as per the sound attenuation study prepared and submitted. Such music is the only source of music and is the only control center – now locked.
2. Speakers improperly placed by Bond St. have been removed from the cabanas.
3. The economic strain put on Bond St. which caused their mismanagement and attempts to draw or create revenue regardless of rules is eliminated.

A sound study was prepared and has been submitted by a very well respected acoustics and consultant in acoustics and audio-visual design, Veneklasen Associates. It reflects the use of the lockbox (controlled always by Thompson Beverly Hills and not the restaurant operator) and the

Chairperson Lili Bosse

June 2, 2010

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lack of impact with an increase in occupancy on the roof from 92 to 185. I am advised by Staff that the Department of Building and Safety and the Fire Department have reviewed occupancy at that level and are accepting of same or a number close to that level of occupancy.

It is important to point out that the Police Department level of response indications for each of the "complaints" is a "priority: 4", a low level priority.

The indication "CKOK" reflects, per Erick Lee, Records and Jail Manager of the Beverly Hills Police Department "showed up - no problem - no police action required - the lowest level of reaction or issue to be dealt with". Others indicated "cancelled" or "no violation; no noise can be heard from the street side". One was for a generator blocking the alley; one for noise of people when exiting on the street level and the paparazzi call ("to get celebs to come out - no violation"). All these reduce the number of complaints as a statistic.

One additional step taken is to commence in July 2010, with the consent of the Traffic and Parking Commission - a valet for drop-off and pick-up on Wilshire Boulevard after 9 PM. This will eliminate noise emanating from the alley on the ground level (not the roof) as cars will be dealt with on Wilshire Boulevard.

#### **ADDITIONAL DOCUMENTS**

The applicant has submitted a parking demand analysis as well as a detailed noise impact analysis for the proposed increase in rooftop occupancy. The parking analysis reflect the clear ability to park additional vehicles for any increase in occupancy, on the roof or otherwise.

#### **REQUEST FOR TEXT AMENDMENT**

The request is to allow a hotel located outside the business triangle to be more competitive with hotels within the triangle and not be limited to an aggregate restaurant occupancy capacity to no more than the number of guest rooms in the hotel. Historically this was decided in a very arbitrary fashion and has no rhyme or reason in present day business.

The proximity to residential area is always of great concern and thus limitations are necessary but not to the extent presently required. The request is for hotels located outside the business triangle that have a maximum aggregate capacity for all restaurant space to be no more than 150% of number of guest rooms. In this instance it would allow the Thompson Hotel to have 160 restaurant occupants as opposed to 107. This would include the ground level, mezzanine and rooftop.

The oddity of this present restriction is that it does not take into consideration other situations such as Kate Mantilini at Wilshire Boulevard and Doheny Drive which is adjacent to a great deal of residential area and has no such restrictions. Other restaurants on Wilshire Boulevard, particularly in the eastern end of the city such as Porterhouse border residential and in fact abut residential and have no such restriction. Kate Mantilini is in an office building and not a hotel but nonetheless has no restrictions. Also an interesting example is Spago Restaurant which is directly across the street from significant residential and residential directly to the east on Crescent without any such restrictions.

Chairperson Lili Bosse

June 2, 2010

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All of the present requests focus on viability of this hotel and restaurant for its economic survival and for the obvious economic benefits that would be bestowed upon the city from revenues produced. Other hotels have late hours and Thompson loses business because they cannot accommodate people for later hours. The applicant has taken great strides to correct prior noise issues. They have eliminated the operator of the restaurant who simply would not abide by neighborhood concerns to a great enough extent. Steps have been and continue to be taken to advise patrons to honor the privacy and quiet of the neighborhood; allowed music is now locked at a decibel level that will have no noise impact. Parking will be exiting on Wilshire Boulevard in large part and will avoid further noise to the adjacent neighbors.

In order to properly compete and utilize the space that has been existing since 1961, we request to be allowed to have greater than 1500 square feet of bar and dining area which in effect includes what has already been used for the last five years but now ties in directly to the usage and new limitations requested.

The parking study reflects more than sufficient parking for as many patrons as is being requested. Many of the additional patrons on the roof area already are guests of the hotel and do not add further vehicles. As to the restaurant occupancy being limited to the number of rooms, most rooms have two guests, therefore limiting the number to only the number of rooms leaves out a great many people staying at the hotel. The increased occupancy on the roof is clearly reflected as workable based upon the significant space on the roof on both levels, much of which is on the northern end at Wilshire Boulevard.

In summary, it is submitted that the Planning Commission need protect our neighborhoods and at the same time protect our revenue producing commercial endeavors. Further, remedial steps that have been taken; appropriate sound corrections and constraints and other steps such as signage reminding patrons to be respectful of the neighborhood are or will be in place; being within the strict confines of a Conditional Use Permit and adding a 24 hour contact information for the property owners and residents within a defined radius of the hotel will be put in place.

The economic viability of this hotel and restaurant depend upon appropriate uses which are reflected in the requests.

We thank you for your consideration.

Very truly yours,

A handwritten signature in black ink that reads "M. J. Dawson". The signature is stylized and written in a cursive-like font.

Mitchell J. Dawson

*On behalf of Thompson Hotel Beverly Hills*

## ***ATTACHMENT 2***

***Letters From Residents Opposing Project***

***Hospitality Executive Management®***  
*The Experience Edge*

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***E. Lotfi    P.O. Box 16805    Beverly Hills, California 90209    (310) 271-8564***

June 1, 2010

The Planning Commission  
City of Beverly Hills  
455 North Rexford Drive  
Beverly Hills, Ca 90210

Dear Planning Commission Members:

This note is regarding the attached notice of public hearing for Thompson Hotel proposal. I am asking that all requests from this business be denied for the following reasons:

They have no respect for the city and no respect for the citizen's rights. I have lived in this city for more than 19 years and have never experienced such total arrogance and disregard to the public shown by this business establishment. They continuously violate the driving rules by driving the wrong way in the one-way alley. The valets keeps parking cars on the street, making it very difficult for the over night permit holders to find a place to park. The Laundry pick-up and food delivery trucks continuously, and for long periods, block the alley for through traffic. At one point, late at night, the Limousine driver had blocked the alley and refused to move to let me through. I had to get out of my go to the hotel lobby and ask the "manager on duty" to help, no one was available so I had to take out my cell phone and let the driver know that the police will be on the way to get him move. On another occasion I saw whole bunch of cars driving the wrong way in that one-way alley by the parking valets. I simply brought it to the lead driver's attention that they are driving the wrong way; the response was "F-U". This was unbelievable! So I went to the hotel and revealed my discoveries to the "Manager on Duty"; she shrugged her shoulders and did not know what to do. I went to city hall and alerted the parking enforcement and the transportation department of such misconduct. Such business behaviors being unacceptable in our city I emailed and faxed Mr. Stephen Brandman, the CEO, of Thompson hotels hoping that he would take an interest and advise his upper management to modify their business conduct in this city. It has been more than a year and I am still waiting for a response.

This company can not handle the business that they have in a professional manner; why would any one permit them to expand? Please deny all request unless they change the way they are doing business in our city.



Sincerely, E. Lotfi

## Ryan Gohlich

---

**From:** Stephanie Johnson [sajie@mac.com]  
**Sent:** Wednesday, June 02, 2010 2:52 PM  
**To:** Ryan Gohlich  
**Subject:** 9360 Wilshire Blvd. Rooftop Conditional Use Permit Extension

Ryan,

Per our conversation, this email serves as my request that the Rooftop Conditional Use Permit **NOT** be extended or expanded upon. I live on Canon Drive, where my bedroom window faces the alley and the building in question. I have resorted to wearing earplugs when I go to bed because of; drunk, loud people walking through the alley late at night, people yelling and talking and drinking on the balconies of the hotel rooms and most notably, the loud music and screaming people on the rooftop in the summers and on the weekends. I've heard it during the winter when my windows are closed and, obviously, much louder in the summer when my windows have to be open.

I can say that I've recently heard loud music, I believe coming from the roof, as recent as the last couple of weeks. I mostly just roll my eyes, close my windows (when it's not too hot) and put in my earplugs. I pay rent in my apartment and don't like that my life has had to be adjusted to the whims of the hotel.

This past summer there was generator in the alley that was so loud all night. I couldn't believe the City allowed them to have there. It was like a semi truck running in your house all night long.

I don't want to have to move and the economy is such that it's not really a viable option at this point. I am a working person who would like to come home, watch a little television and go to bed without the use of earplugs, without worrying that some drunken fool my do something to my car because they think it's funny (my front tire was recently stolen off my vehicle in the middle of the night), or be woken up from loud music or people yelling at the tops of their lungs.

I would be most unhappy and prepared to call the hotel or the police more than I have had to do already to do in order to get a good nights sleep or have my weekend evenings uninterrupted.

Please don't grant this permit.

Thank you,

Stephanie A. Johnson

Received  
City of Beverly Hills

JUN 3 2010

PLANNING Division  
COMMUNITY DEVELOPMENT

DAVID & HELENA MIGDAL  
826 Glenmont Avenue  
Los Angeles, CA 90024  
(310) 474-5803

June 2, 2010

Ryan Gohlich  
Associate Planner  
Planning Division  
City of Beverly Hills  
455 N. Rexford Drive  
Beverly Hills, CA 90210

Re: Entitlement Requests by the Thompson Hotel

Dear Mr. Gohlich:

My husband and I are the owners of the duplex located at 129 -131 South Crescent Drive in Beverly Hills. The property is approximately three doors down from the Thompson Hotel at Wilshire and Crescent. I have received notice that the Thompson Hotel has requested amendments to the Beverly Hills Municipal Code to increase the maximum capacity of restaurants, and to modify the Thompson Hotel's existing conditional use permit to allow increased occupancy on the hotel's rooftop and bar areas, to allow the rooftop area to operate until 2:00 a.m., and other modifications.

I am writing to advise you that we are opposed to the Thompson Hotel's request. Among other things, the requests will increase traffic noise and congestion, as well as late-night noise. These changes will be disturbing to the tenants in the vicinity (many of whom, including my tenants, are quite elderly) and adversely affect the value of the real property in the area.

For these and other reasons, I urge you to reject the Thompson Hotel's requests.

Very truly yours,

  
HELENA MIGDAL

# ***ATTACHMENT 3***

***Planning Commission Resolution No. 1418***

RESOLUTION NO. 1418

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY ISSUING A CONDITIONAL USE PERMIT FOR ROOFTOP USES AND A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING FOR AN EXISTING HOTEL AT PROPERTY LOCATED AT 9360 WILSHIRE BOULEVARD (BEVERLY PAVILION HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS

HEREBY FINDS AND RESOLVES AS FOLLOWS:

Section 1. Pomeranc Group, LLC, owner (“Applicant”), has applied for the following discretionary approvals for an existing eight-story hotel located at 9360 Wilshire Boulevard (Beverly Pavilion Hotel) (the “Project”):

(1) A Conditional Use Permit (“CUP”) to allow construction of a new 1,817 square foot rooftop gymnasium and associated restroom facilities, a 2,000 square foot extension of the existing rooftop pool deck area, and the addition of two trellis structures that intersect a forty-five degree height envelope for rooftop uses.

(2) A Development Plan Review (“DPR”) to allow eight tables and 32 chairs to be located on private property at the northeast corner of the ground floor level of the hotel, which is currently enclosed. The exterior walls of the dining portion of the hotel, facing Wilshire Boulevard will be removed and set back 12 feet, in order to allow for open air dining with a covered roof.

Beverly Hills Municipal Code (“BHMC”) Section 10-3-3109 permits rooftop gymnasiums to exceed the height, story and density limitations established by the BHMC

provided the proposed gymnasium meets certain criteria and is authorized by the Planning Commission through a DPR. In addition, BHMC Section 10-3-3801 expressly provides that the height and area requirements set forth in other provisions of the BHMC shall not apply to conditional uses for which a CUP is granted. The proposed rooftop gymnasium meets all of the criteria imposed by the BHMC except that it will exceed the 45-degree height envelope, measured from the roof's edge. However, the Planning Commission may approve the additional height through the DPR and CUP provided the Commission makes certain findings.

Beverly Hills Municipal Code Section 10-3-3100 permits open air dining for more than two tables or seating for more than eight persons on a site located within 170 feet of a residential zone provided the proposed open air dining area meets certain criteria and is authorized by the Planning Commission pursuant to a DPR. Although the open air dining portion of the hotel is surrounded by the commercial zone to the west, east, and north, and oriented to the commercial zone facing Wilshire Boulevard, the R-4 zone is directly to the south of the hotel site, and therefore, a DPR is required.

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 (hereafter the "Guidelines"), and the City's environmental guidelines, and a Categorical Exemption has been issued in accordance with the requirements of Section 15303(e) of the Guidelines.

Section 3. The Planning Commission conducted duly noticed public hearings on the Project on January 25, 2006, and February 23, 2006, at which times oral and documentary evidence was received concerning the application.

Section 4. A 1961 variance authorized the current 79-foot high, eight-story hotel. The hotel is comprised of a ground floor lobby, a mezzanine level with a portion of the garage parking at the second level, garage parking on the third level and hotel rooms on levels four through eight. The roof currently has an accessible terrace, mechanical equipment room, elevator and stair shaft, as well as a pool and deck which is raised eight feet (8') above the roof terrace level. The 1961 variance imposed various conditions on the hotel which run with the land, including the following height and density limitations: (1) The maximum height of the building shall not exceed 100 feet; and (2) the floor area for all development on the site – excluding basement, mezzanine, penthouse, and parking areas of the building – shall not exceed a maximum FAR of 3.5 to 1 (for a total of 57,000 square feet of useable floor area). The hotel is currently in compliance with these conditions. The building height, including the raised pool and deck, is under the 100-foot height limit, and the aggregate floor area of the building is at the 57,000 square-foot limit. It should be noted that the proposed rooftop addition will cause the hotel to exceed the 57,000 square-foot density cap imposed by the 1961 variance. However, the Planning Commission may approve the additional density through the DPR and CUP provided the Commission makes certain findings.

The Project proposes the construction of a 1,817 square-foot addition to the lower roof level, comprised of a gym, men's and women's restroom facilities, and a service/prep room.

These facilities will essentially wrap around the existing pool structure (upper roof level), on the east, south and west sides. The building addition will be set back four feet (4') from the edge of the roof at the east and west sides of the building and seven and one-half feet (7.5') from the edge of the roof at the south side of the building. The service/prep room will be located on the east side of the lower rooftop level and will support the new bar grill that will be located at the north portion of the lower roof level. Two new stairways will flank the existing elevator shaft and provide access to the upper level pool area.

The unenclosed trellised roof shade structures will be located on each side of the water cooler enclosure. New gas fireplaces will be built into the side walls. An eight-foot tall continuous glass windscreen wall will enclose the entire perimeter of the north portion of the lower roof level. With the expansion of the lower level gym, service/prep room, and restroom facilities, the pool deck on the upper level will also expand in size, as it will be the "roof" for these facilities. The upper roof level will include chaise lounge seating, tables and chairs, and private cabana spaces (covered by canvas material) along the south side of the deck. As with the lower level, an eight-foot tall continuous glass windscreen wall will enclose the entire perimeter of the upper level. A continuous landscape planter will run the length of the windscreen walls and will cover the lower half of the glass walls. With these proposed improvements, the unenclosed area of the lower roof level will increase from the currently existing 1,810 square feet to a proposed 2,500 square feet. The usable area of the upper roof level, surrounding the pool, will increase from an existing 1,000 square feet, to a proposed 3,000 square feet. This represents an aggregate net increase of 2,690 square feet of unenclosed roof area. In accordance with

BHMC Section 10-3-2864, the proposed new improvements to the rooftop expand the maximum allowable capacity on rooftop to 92 persons, excluding hotel employees.

In accordance with the requirements of BHMC Section 10-3-2862, a CUP is required for the proposed improvements to permit the rooftop improvements to expand the building envelope of an existing hotel, to create a new outdoor dining area for the existing restaurant, and to permit the rooftop trellises to intersect the 45 degree height envelope from the building roof edge.

The DPR application includes remodeling the existing ground floor dining area, to include eight tables and 32 chairs to be located in a 420 square foot, partially enclosed area (ceiling only) at the northeast portion of the hotel ground floor. The existing shutter doors of the restaurant space, facing Wilshire Boulevard and Crescent Drive at the northeast corner, will be removed and set back 12 feet, to provide the open air dining area. The open air dining will also extend to the west along the Wilshire frontage of the hotel. The open air dining area will be located entirely on private property, and no portion will encroach into the public right-of-way. Planter walls will fully enclose the dining area and separate it from the public sidewalk. The remaining interior dining area will be retained in the same location as currently exists in the ground floor space of the hotel. The total capacity of dining, both open air and interior areas will be 102 persons in a total area of 1,495 square feet. The new floor area devoted to dining and bar area will comply with the 1,500 square-foot limit imposed by the 1961 Variance.

Section 5. In accordance with Beverly Hills Municipal Code Section 10-3-3800, the Planning Commission may authorize the proposed rooftop addition to the existing

hotel, provided the Commission finds that the proposed location of the rooftop addition will not be detrimental to adjacent property or the public welfare. The Planning Commission may impose such conditions as are deemed necessary to preserve the integrity and character of the district, the utility and value of adjacent property, and the general welfare of the neighborhood.

Section 6. As conditioned, proposed Project will aesthetically enhance the existing rooftop of the hotel. The proposed uses on the rooftop constitute amenities commonly provided by a first-class hotel, make the hotel more attractive to hotel guests and visitors to the City, and contribute to the City's tax base. The rooftop additions and the proposed uses will not impair any views or create any shade and shadow impacts to neighboring structures. Further, the proposed improvements will not add height to the building – the existing elevator/stair shaft will remain the highest element of the building. All activity on the rooftop will comply with the City's noise ordinance. As part of the overall remodel of the hotel by the new operator, Thompson Hotel, exterior improvements will include additional façade upgrades beyond the rooftop elements, and all upgrades will be reviewed by the Architectural Commission.

As required by Beverly Hills Municipal Code Section 10-3-3109, use of the rooftop gymnasium will be restricted solely to registered hotel guests and hotel employees, and no admittance or use fees shall be charged for the use of the rooftop gymnasium. Therefore, the expansion of this function room and amenities, ancillary to the hotel operation will not create any additional traffic or parking impacts to the adjacent commercial or residential streets. The 1961 Variance for this site does not include any conditions which prohibit service of food and beverage at the terrace and pool deck area to hotel guests. There will be no food service

provided in the new gymnasium, pursuant to Section 10-3-3109(4). However, food and beverage service at the terrace and pool deck would be part of the hotel's normal service operation as is provided for room service, provided there is no designated area. As conditioned by this resolution, the CUP will expire one year after the issuance of the certificate of occupancy for the Project improvements, with a renewal hearing to determine that the use of the rooftop is operating in a manner substantially the same as described and approved by the Planning Commission, and is not creating an adverse impact on the surrounding area.

Section 7. Pursuant to Beverly Hills Municipal Code Section 10-3-3503, a DPR is required to permit the newly constructed outdoor dining area and for the proposed rooftop gymnasium. In considering the application for the DPR, the Planning Commission considered the following issues:

- (a) Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;
- (b) Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area;
- (c) Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards;
- (d) Whether the proposed plan will be detrimental to the public health, safety or general welfare; and

(e) 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.

(f) Whether the proposed plan will create any significantly adverse parking impacts as a result of employee or patron parking demand.

(g) Whether the proposed plan will significantly and adversely affect neighboring properties due to:

- (1) The accumulation of garbage, trash or other waste;
- (2) Noise created by operation of the dining area or by employees or visitors entering or exiting the site;
- (3) Light and glare;
- (4) Odors or noxious fumes.

Section 8. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds with respect to the DPR:

8.1 The proposed improvements are consistent with the General Plan and any specific plans adopted for the area. The proposed open air dining is located in a commercial zone and is permitted in conjunction with a restaurant with the issuance of a DPR. The proposed open air dining area will contribute to the pedestrian atmosphere along Wilshire Boulevard, will create lively activity at the street level, and, as proposed, is a use consistent with the General Plan adopted for the area. The proposed rooftop gymnasium is permitted in the C-3 Zone provided its use is restricted to registered hotel guests and hotel employees. The proposed rooftop

gymnasium allows the hotel to provide an amenity expected of a first-class hotel and is a use consistent with the General Plan adopted for the area.

8.2 The proposed improvements will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The new restaurant dining and bar area will remain the same size (1,500 square feet maximum) that has existed at the site for the past 43 years. The only physical change to the hotel will be to the front portion of the dining area façade, oriented towards Wilshire Boulevard, which will be replaced with shutter doors and set back 12 feet to create the open air dining area. The remaining interior dining area will be reconfigured in order to comply with the 1,500 square foot limit. The open air dining use will be similar to many open air dining uses along the Wilshire Boulevard streetscape. Therefore, the proposed open air dining will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The rooftop gymnasium will be designed to prevent impacts to adjacent development and use will be limited to registered hotel guests and hotel employees only. Therefore, proposed rooftop gymnasium will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.

8.3 The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property. The proposed open air dining area will face the commercial zone, towards Wilshire Boulevard and be located at the northeast corner of Crescent Drive. The nearest residential parcel to the south is located over 125 feet away from the proposed open air dining.

The hotel building itself will act as a separation of the open air dining activity or buffer of any potential noise generated by the open air dining. Access to restaurant space from the Crescent Drive elevation shall be used for emergency exit only. In addition, both the BHMC and this resolution impose adequate controls on the rooftop gymnasium to ensure that its use will not interfere with the use and enjoyment of adjacent residential properties. Therefore, the nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

8.4 The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards. Access to the dining area will be from the interior of the hotel, and there will be no entrance or exit directly from the Wilshire Boulevard façade. The open air dining area will be fully enclosed from the sidewalk area by planter walls. Patrons of the restaurant will use the same hotel driveway that is used by hotel guests, which will remove any queuing of cars off Wilshire Boulevard and onto the hotel driveway. The hotel driveway is 25 feet wide, and runs the entire 150-foot length of the hotel site, which will provide queuing space for cars. There will be one exit door of the restaurant facing Crescent Drive, but this door will be used for emergency egress only. The location of the proposed rooftop gymnasium ensures that no pedestrian-vehicle conflicts or pedestrian safety hazards will arise. Moreover, use of the proposed rooftop gymnasium is restricted to registered hotel guests and hotel employees only, thereby ensuring that no additional traffic impacts are created. Therefore, the Project will not create any significantly adverse traffic impacts, traffic safety impacts, pedestrian-vehicle conflicts, or pedestrian safety hazards.

8.5 The proposed plan will not be detrimental to the public health, safety or general welfare. For the reasons set forth in this Section 8, the proposed plan will not be detrimental to the health, safety or general welfare.

8.6 The proposed plan will not create any significantly adverse parking impacts as a result of employee or patron parking demand. The hotel has a full valet parking operation of 120 spaces, and can accommodate up to 140 spaces with tandem/stacked parking. In addition, use of the proposed rooftop gymnasium is restricted to registered hotel guests and hotel employees only. Although a car elevator is necessary to access all 120 parking spaces, the Applicant will be required to implement a parking management plan that will provide for sufficient staffing to ensure that operation of the parking area will not adversely impact parking on the site or in the vicinity of the Project. With the inclusion of conditions that the Applicant shall submit evidence satisfactory to the Director attesting to the availability of sufficient parking, including off-site parking, to meet the parking needs for the hotel and restaurant, and free parking to hotel employees and reduced-rate parking for restaurant patrons, the proposed plan will not create any significantly adverse parking impacts as a result of employee or patron parking demand.

8.7 The proposed plan will not create any significantly adverse impacts on neighboring properties as a result of:

(1) Accumulation of garbage, trash or other waste. As stated above, the proposed open air dining and the rooftop gymnasium will be contained and enclosed within the hotel premises, and restaurant management will properly dispose of garbage.

(2) Noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant. The proposed open air dining area will face Wilshire Boulevard and will be oriented towards the commercial zone. The nearest residential parcel to the south will be over 125 feet from the open air dining area. Employees and visitors will enter from the main entry off Wilshire Boulevard, and the exit door facing Crescent Drive will be used only for emergency egress only. Further, the restaurant is subject to the provisions of the transitional use ordinance. The Applicant has provided an acoustical analysis that concludes the expected sound levels will be below the measured ambient levels, and the sound levels on the rooftop will be inaudible at the alley directly south of the hotel and at six multi-family residences in close proximity to the hotel. In addition, the hours of operation of the rooftop are restricted by this resolution, and use of the rooftop gymnasium is limited to registered hotel guests and hotel employees only. Therefore, the location of the proposed Project will not create any significantly adverse impacts on neighboring properties as a result of noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant.

(3) Light and glare. There will be no light or glare impacts resulting from the proposed open air dining or the proposed rooftop gymnasium. All lighting installed will be required to comply with the BHMC provisions requiring shielding and appropriate placement to direct light and glare away from adjacent uses.

(4) Odors or noxious fumes. The existing restaurant space within the hotel site has an adequate ventilation system that directs odors resulting from the kitchen facilities away from the residential zone to the south. No odors should be associated with the operation of the rooftop gymnasium.

Section 9. Based upon the evidence presented, the Planning Commission hereby conditionally approves the CUP and the DPR, subject to the following mitigation measures and conditions:

1. Except as otherwise provided by these conditions, the Project shall be constructed and operated in substantial compliance with the plans submitted to and approved by the Planning Commission at its meeting of February 23, 2006.
2. The aggregate total number of persons on the rooftop, including both the upper and lower levels, at any given time shall not exceed 92 persons (excluding staff). The hotel management shall install and maintain at all times signage on the rooftop area satisfactory in form and quantity to the Director of Community Development displaying the 92 maximum occupancy limit.
3. No live entertainment shall be allowed on the rooftop area at any time.
4. Pre-recorded, background music which does not interfere with normal speech communication may be played on the rooftop area, provided the volume level conforms to the City's noise level standard and is not audible beyond the hotel's property lines.
5. The glass wind screens surrounding the perimeter of the upper and lower rooftop shall be comprised of clear glass.
6. Free parking shall be provided to hotel employees, including any consultants or agents retained by the operator of the subject hotel in connection with the operation of said facility, at all times.
7. Valet parking shall be provided at all times. Restaurant patrons and non-hotel rooftop guests shall be charged reduced parking rates for said valet parking with validation. The

parking rates charged for said valet parking shall not exceed the average of rates charged for valet parking within a one-half mile radius of the Project.

8. In accordance with the provisions of BHMC Section 10-3-2861, no direct entry into the restaurant shall be allowed from either Wilshire Boulevard or Crescent Drive.
9. The restaurant may replace the existing nonconforming restaurant signage at the site with signs of similar size and quantity. No additional external signage or displays for the restaurant that are visible from any public street shall be permitted.
10. The access to restaurant space located at the Crescent Drive elevation shall be used for emergency egress only and shall not be used to provide entry to the restaurant at any time.
11. The CUP for rooftop uses (gymnasium, restrooms, service/prep room, and trellis structures) and DPR for the open air dining and rooftop gymnasium shall expire after one year from date of the issuance of a certificate of occupancy for the Project. Upon application by the Applicant at least 60 days prior to the expiration of the CUP and DPR (collectively, the "Permits") the City may extend the Permits for additional one-year terms if the reviewing authority determines that the open air dining and the rooftop uses are operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating an adverse impact on the surrounding area. The initial annual renewal hearing shall be conducted by the Planning Commission. The Planning Commission may, in its sole discretion, delegate the annual renewal hearing for subsequent years to the Director of Community Development (the "Director"), and the Director shall conduct all subsequent annual review hearings thereafter.

For any review conducted by the Director, the Director may extend the Permit if the Director determines that the open air dining and rooftop uses are operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating an adverse impact on the surrounding area. Any decision by the Director pursuant to this paragraph may be appealed to the Planning Commission by filing a notice of appeal with the Director within ten days after the Director has issued the decision. Notice of the Director's decision shall be mailed to any person who submits to the Director a written request for such notice. If the matter is appealed to the Planning Commission, the Planning Commission shall hold a noticed public hearing on the matter in accordance with the hearing procedures set forth in Article 38 of Chapter 3, Title 10 of the Beverly Hills Municipal Code.

If neither the Planning Commission nor the Director extend the Permits, then the Permits shall expire and all rights possessed by the applicant under the Permits shall be terminated. Provided, however, that if the Applicant files an application for an extension, any existing Permits shall be extended until the City takes final action on the application. Provided, further, that if the Planning Commission or Director extend only one of the Permits (either the CUP or the DPR) but do not extend the other Permit, only those rights authorized by the Permit that was not extended shall be terminated.

Any application for an extension of the Permits shall be subject to the application fees established by resolution of the City Council. In considering any application for an

extension of the Permits, the Planning Commission or the Director may impose additional conditions of approval on the Project to ensure that the Project does not adversely impact adjacent uses or create significant environmental impacts on the community within the meaning of the California Environmental Quality Act.

12. Keycard access shall be required for all elevators to restrict access to the rooftop to hotel guests and their invitees and authorized members of the general public only.
13. No member of the general public shall be permitted to reserve any portion of the rooftop for meal service at any time unless and until the Applicant or its successor in interest applies for and is granted an amendment to the 1961 Variance removing the 1,500 square-foot limit imposed on floor area devoted to dining and bar area.
14. No use of the rooftop pool area and/or gymnasium shall be permitted between the hours of 1:00 a.m. and 5:30 a.m. daily. The hotel operator shall implement provisions satisfactory to the Director of Community Development to ensure that the rooftop area is emptied by or before 1:00 a.m. daily.
15. Use of the rooftop gymnasium facilities shall be restricted to the hotel guests and hotel employees.
16. Subject to the review and approval of the Architectural Commission, the Applicant shall provide landscaping around the perimeter of outdoor dining areas to create a physical buffer between the open air dining area and the public right-of-way.
17. Subject to the review and approval of the Architectural Commission, the Applicant shall provide landscaping around the perimeter of the rooftop (both upper and lower levels).

18. This Resolution shall not become effective unless and until the Applicant prepares and implements and the Director of Community Development with consultation by the Director of Public Works and Transportation approves a parking management plan. Said parking management plan shall provide, at a minimum, for all of the following:
- (a) proof satisfactory to the Director of Community Development of the availability of off-site parking supply to accommodate overflow parking needs;
  - (b) a description of the valet operations, including, but not limited to, staging, traffic flow, staffing, vehicle storage, queuing on Wilshire Boulevard, special event parking, how overflow demand is covered, and elevator operation;
  - (c) a description of how patrons and hotel guests will be notified of valet and off-site parking and any proposed signage;
  - (d) a loading and delivery management plan; and
  - (e) an employee parking program.
19. The City expressly reserves jurisdiction relative to traffic and parking issues. In the event the Director determines that operation of the use at this site is having unanticipated traffic and parking impacts, the Director shall require the Applicant to pay for a parking demand analysis. After reviewing the parking demand analysis, if, in the opinion of the Director, the parking and traffic issues merit review by the Planning Commission, the Director shall schedule a hearing in front of the Planning Commission in accordance with the provisions of Article 38 of Chapter 3 or Title 10 of the Beverly Hills Municipal Code. The Planning Commission shall conduct a noticed public hearing regarding the parking and traffic issues and may impose additional conditions as necessary to mitigate any

unanticipated traffic and parking impacts caused by the proposed Project, and the Applicant shall forthwith comply with any additional conditions at its sole expense.

20. After 12:00 midnight daily, all vehicles shall exit the site onto Wilshire Boulevard. No access onto Crescent Drive shall be permitted after midnight.
21. An annual attestation that the conditions of approval are being met shall be submitted to the City.
22. In order to ensure that the Applicant pays an equitable share of the cost of mitigating future transportation improvements and programs made necessary by the Project, the Applicant shall pay a transportation facilities and programs development fee in accordance with Title 3, Chapter 1, Article 9 of the Beverly Hills Municipal Code as amended. If the amount of such fee has not been established at the time that the fee would be due and payable, the Applicant shall pay such fee within thirty days after the amount of the fee has been established by resolution of the City Council. If the amount of the fee has not been established before occupancy of the Project, then the Applicant's obligation to pay such fee shall expire.
23. A cash deposit of \$10,000 shall be deposited with the City to ensure compliance with the conditions of this Resolution regarding construction activities. Such deposit shall be returned to Applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten days of the notice; and (c) issue a stop work

notice until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the Applicant timely requests a hearing, said deposit will not be forfeited until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice, and the deposit of an additional \$10,000, pursuant to the procedure set forth herein above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited. The requirements of this condition are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this Resolution or the Beverly Hills Municipal Code.

24. These conditions of approval shall run with the land and shall remain in full force and effect for the duration of the life of this approval. This resolution approving a CUP and DPR (together, the "Permits") shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit.

The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide

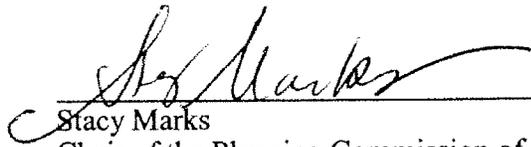
the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Permits shall be **null and void** and of **no further effect**.

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 Permits.

25. 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 shall comply with all such modified or additional conditions.

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

Adopted: March 30, 2006

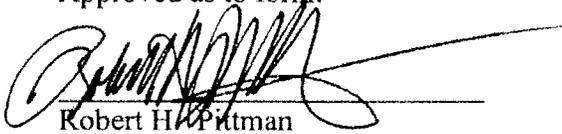
  
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Stacy Marks  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:

  
\_\_\_\_\_  
Secretary

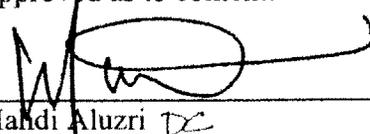
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Approved as to form:

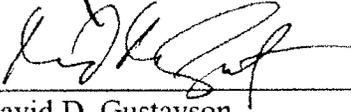


Robert H. Pittman  
Assistant City Attorney

Approved as to content:



Mandi Aluzri  
Director of Community Development



David D. Gustavson  
Director of Public Works

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

I, MAHDI ALUZRI, Secretary of the Planning Commission and Director of Community Development (the "Director") of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1418 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on March 30, 2006, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES:           Commissioners Furie, Reims, Krasne, Melamed, and Marks.

NOES:           None.

ABSTAIN:       None.



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

***ATTACHMENT 4***

***City Council Resolution No. 3013***

RESOLUTION NO. 3013

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS GRANTING A VARIANCE FROM THE HEIGHT LIMIT REQUIREMENTS OF CHAPTER X OF THE BEVERLY HILLS MUNICIPAL CODE TO THE CHARLOTTE CORPORATION ON LOTS 1717 AND 1718, TRACT 6380 (9360-9366 WILSHIRE BOULEVARD) ON APPEAL FROM DECISION OF PLANNING COMMISSION DENYING VARIANCE.

WHEREAS, the Planning Commission of the City of Beverly Hills, on October 18, 1960, denied the application of Charlotte Corporation, being Zone Variance Application No. ZV-73, requesting a variance from the height limit requirements of Chapter X of the Beverly Hills Municipal Code in order to permit the construction of an eight-story hotel building on Lots 1717 and 1718, Tract 6380 (9360-66 Wilshire Boulevard);

WHEREAS, the applicant thereafter filed an appeal from the decision of the Planning Commission and thereafter modified its request to include a request to construct a six-story hotel building;

WHEREAS, the Council of the City of Beverly Hills met at 7:30 P. M. , on Tuesday, January 24, 1961, and held a public hearing to consider said appeal and said request as modified;

WHEREAS, notice of said hearing was given as required by law; and

WHEREAS, at said hearing said application and appeal were considered and oral and documentary evidence was received relative thereto;

NOW, THEREFORE, the Council of the City of Beverly Hills does hereby resolve, find, determine, and declare as follows:

Section 1. That because of special circumstances applicable to the subject property, the strict application of the provisions of Chapter X of the Beverly Hills Municipal Code deprives the subject property of privileges enjoyed by other property in the vicinity and under identical zone classification.

Section 2. That the granting of a variance in accordance herewith would not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

Section 3. That the granting of a variance in accordance herewith would not be detrimental to the public welfare or injurious to property and improvements in the zoning district and neighborhood in which the property is located.

Section 4. That in order to carry out the general purpose and intent of Chapter X of the Beverly Hills Municipal Code a variance is granted to the Charlotte Corporation to construct a hotel building, with incidental facilities, of a height in excess of that permitted by the Beverly Hills Municipal Code on all or any portion of Lots 1717 and 1718, Tract 6380 (9360-66 Wilshire Boulevard), strictly in accordance with and subject to the following conditions:

- a. That the total height of said building shall not exceed six (6) stories or 100 feet, whichever is less, measured and defined as specified by said Code, except for the construction of a penthouse as allowed by said Code.
- b. That the total gross floor area of all buildings on said Lots 1717 and 1718, excluding basement, mezzanine, penthouse, and off-street automobile parking areas, shall not exceed three and one-half times the buildable area of said Lots 1717 and 1718.
- c. That the total number of hotel guest rooms on said Lots 1717 and 1718 shall not exceed 114.
- d. That the total floor area devoted to dining and bar use shall not exceed 1500 square feet.
- e. That 118 off-street automobile parking spaces shall be provided and maintained in accordance with the requirements of said Code and the standards for off-street parking on file in the Beverly Hills Building Department, together with adequate reservoir capacity and ingress and egress traffic pattern acceptable to the Director of Public Works and Superintendent of Building Department.
- f. That two loading spaces shall be provided and maintained in accordance with the requirements of said Code.
- g. That no portion of the parking and loading space required to be provided and maintained hereunder shall be used for required space for any building or use not situated on said Lots 1717 or 1718.
- h. That no portion of the parking and loading space required to be provided and maintained hereunder shall be used for other than automobile parking purposes and the loading and unloading of passengers and merchandise, and specifically, but without limiting the generality of the foregoing, no portion thereof shall be used for storage, warehousing, workshops, or the sale or storage of gasoline, automobile products, or other merchandise.

i. That no sign shall be constructed, erected or maintained above the top story of any structure constructed on said Lots 1717 and 1718, except on the side of a penthouse.

j. That all structures constructed on said Lots 1717 and 1718 shall conform to all other applicable provisions of said Code, including required building separations, and all other local, State, and Federal regulations.

k. That, prior to the effective date of this variance, and as a condition precedent to the rights granted herein becoming effective, the Applicant and the record owner or owners of said Lots 1717 and 1718 shall file with the City Clerk, in a form satisfactory to the City Attorney, their written acceptance of this resolution and the conditions imposed herein, and their agreement to comply therewith.

Section 5. This variance shall become effective at 12:01 A.M., March 1, 1961, and the rights granted herein shall be void and of no further force or effect unless the applicant commences the exercise of the rights granted hereunder on or before November 30, 1961, provided that the Planning Commission may, for good cause shown, extend the time limit provided herein.

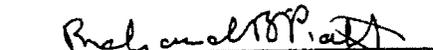
Section 6. The City Clerk shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the City Council of this City, and he shall further mail a certified copy of this resolution to the applicant, Charlotte Corporation, 2015 West Olympic Boulevard, Los Angeles 6, California.

Section 7. This resolution shall become effective and in full force and effect at 12:01 A.M., on the day next following its passage.

Passed, approved, and adopted the 7TH day of  
FEBRUARY, 1961.

  
Mayor of the City of  
Beverly Hills, California

ATTEST:

  
City Clerk

## ***ATTACHMENT 5***

***Lease Agreement For 250 Off-Site Parking Spaces***

LAW OFFICES OF  
**DAWSON TILEM & GOLE**

**MITCHELL J. DAWSON**  
**JOSEPH N. TILEM**  
**GARY M. GOLE**

**9454 Wilshire Boulevard, Penthouse**  
**Beverly Hills, California 90212**  
**Telephone (310) 285-0880 / 273-3313**  
**Facsimile (310) 285-0807**

May 19, 2010

Mr. Ryan Gohlich  
City of Beverly Hills  
Department of Community Development  
455 N. Rexford Drive  
Beverly Hills, CA 90210

*Via Hand Delivery and Email*

**Re: Thompson Hotel Beverly Hills**

Ryan,

Attached you will find the license agreement between Clarity Realty Partners, LLC and the Thompson Hotel of Beverly Hills.

This agreement is for the use of parking spaces at the Clarity building at the corner of Wilshire Boulevard and Crescent Drive.

The valet company for Thompson Hotels, Parking Concepts, Inc., has had this location approved as part of its valet approval and has been using the premises for evening use (6 PM-2 AM; paragraph 6) for more than two years.

As you well know, the premises at 100 North Crescent Drive is an office building with little or no use for vehicles after 6 PM. The Account Executive / Vice President of Parking Concepts, Inc., Mr. Jesse Dee has been the Account Executive for Thompson Beverly Hills for many years.

Mr. Dee advises that the actual use of the Clarity building has only been necessary on Fridays and Saturdays and an occasional Thursday and approximately 10 days per month. As well, the amount of spaces on those days has been far less than the significant availability which is 250 spaces for any evening.

Nonetheless, there is availability for significant parking in the evening, when needed.

Rooftop usage, is almost always limited to summer weather and evenings and thus entirely consistent and with the ability to park additional vehicles for increased occupancy.

Please advise if you have any further questions or comments.

Sincerely,



Mitchell L. Dawson

Encls.

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("License") is made this 1st day of February, 2008, by and between Clarity Realty Partners, LLC, a Delaware limited liability company ("Licensor") and The Thompson Hotel of Beverly Hills, a \_\_\_\_\_ Corporation ("Licensee").

1. Licensed Premises. Licensor, for and in consideration of the License Fee (as defined in Section 3 hereof) and other conditions and covenants to be observed, satisfied, fulfilled and performed by Licensee, hereby grants to Licensee and Licensee hereby accepts from Licensor a license to use and occupy the parking garage at 100 N. Crescent Dr., located in Beverly Hills, California 90210 ("The Parking Facility"), upon the terms and conditions further set forth herein. Delivery of possession of the Premises by Licensor to Licensee shall be conclusively deemed to have been given upon the Commencement Date. If Licensor fails to deliver the Premises to Licensee within thirty (30) days following the date of this License, either party hereto may terminate this License upon not less than thirty (30) days prior written notice to the other party.

2. Term of License. The term of this License ("Term") shall commence on <sup>March 1st</sup> February 1, 2008, ("Commencement Date") and shall continue on a month-to-month tenancy, unless earlier terminated pursuant to the further terms and provisions contained herein ("Termination Date"); provided, however, that either party shall have the right to terminate this License at any time, in such party's sole discretion, upon not less than thirty (30) days prior written notice to the other party.

3. License Fee. Licensee shall pay to Licensor the monthly license fee ("License Fee") in the amount of \$5,000 per month due in advance on the first of each month. For any partial month, the monthly license fee shall be pro-rated on a per diem basis for the month of partial tenancy.

4. Permitted Use, Trade Name. Licensee shall use the Premises to park vehicles for temporary storage purposes, and for no other purpose or use ("Permitted Use") without the permission of Licensor. Licensee shall operate its business in strict accordance with the Licensor's rules and regulations and shall abide by the hours of operation of the parking structure or as agreed to by Licensor.

5. Signage. [Intentionally Omitted].

6. Operating Hours. 6pm - 2am

7. Utilities. Licensee shall be responsible for arranging for, obtaining and paying all costs of any utility service as may be necessary in order to operate Licensee's business at the Premises pursuant to this License.

8. Insurance. Licensee shall provide and keep in force during this License, for the benefit of Licensor and any other persons or entities designated by Licensor, comprehensive general liability insurance provided by a company selected by Licensee and satisfactory to Licensor, in the amount of Five Hundred Thousand Dollars (\$500,000.00) for injuries to any one (1) person, One Million Dollars (\$1,000,000.00) for any one (1) accident, and One Hundred Thousand Dollars (\$100,000.00) for property damage. Licensee shall deliver certificates of such insurance to Licensor before occupying the Premises or installing any of its property, and in any event, within ten (10) days after the date of this License. All such policies shall include a provision that Licensor shall receive at least thirty (30) days written notice prior to the making of any material change thereto or cancellation thereof. Licensee agrees that shall occupy the Premises at its sole risk and shall indemnify, defend, and hold Licensor, its ground lessor/lessee (if any), shareholders, members, managers, trustees, officers, employees, representatives and agents (including, without limitation, Clarity Realty, Incorporated) harmless from and against any and all claims, damages and liabilities for injury to person or property, including without limitation, reasonable attorneys' fees, from any business or operation of Licensee in the Premises. Furthermore, Licensor and Licensee hereby agree to have their respective insurance policies written so that the insurers thereunder shall waive all rights of subrogation and shall have no cause of action against the other as a result of any casualty no matter how caused.

9. Alterations. Licensee shall not make or cause to be made any alterations, improvements, changes, modifications or installments in or to the Premises or any part thereof without Licensor's prior written consent, which consent may be granted or withheld in Licensor's sole and absolute discretion.

10. Maintenance of Premises; Rules and Regulations. Licensee accepts the Premises in its current "As Is" condition as of the date of this License, without any obligation of Licensor to make any repairs or replacements, and agrees to operate and use the Premises in accordance with the terms hereof. Licensee shall keep and maintain the Premises and the surrounding area, including any equipment installed therein or thereabout, neat, free of debris and trash, in good order and repair and in an attractive and clean condition in accordance with the general character of the Parking Facility, and to comply with the rules and regulations generally applicable to tenants of the Commercial Office Building, as amended from time to time, a current copy of which are attached hereto as Exhibit "B".

11. Governmental Approvals. (a) Subject to the provisions contained in Section 11(f) hereof, Licensee shall pay the cost of any documentary stamps or other transfer fees or any other sales taxes, use taxes or other taxes on License Fees (if applicable), and any other impositions or levies as may be required by any applicable governmental authority.

(b) Licensee shall not, without the prior written consent of Licensor, which consent may be granted or withheld in Licensor's sole and absolute discretion, be permitted to apply for any special exception, site plan revision, parking plan revision, variance, special exception, reclassification of the Parking Facility or any other governmental permit or approval except a (i) building permit to construct any alterations of the Premises, subject to Licensor's approval in accordance with the further terms and provisions of this License, and (ii) a certificate of occupancy (or its equivalent) with respect to the Premises, a copy of which shall be provided to Licensor upon Licensee's receipt thereof.

12. Interest; Administrative Costs. If (i) Licensee fails to make any payment under this License when due, (ii) Licensor performs any obligation of Licensee under this License, or (iii) Licensor incurs any costs or expenses as a result of Licensee's default under this License, then Licensee shall pay, upon demand, interest at the rate of twelve percent (12%) per annum, from the date such payment was due or from the date Licensor incurs such costs or expenses relating to the performance of any such obligation or default.

13. Surrender of Premises. On the Termination Date or on the date of earlier termination of this License pursuant to the terms and provisions hereof, Licensee shall quit and surrender the Premises in good order and condition, reasonable use and wear and tear thereof excepted, and shall remove its equipment and other property, and shall repair any and all damage caused by such removal. Any equipment or property not removed from the Premises shall be deemed abandoned; provided, however, that Licensee shall remain liable for all reasonable costs and expenses incurred by Licensor in connection with the removal and disposal thereof.

14. Security Deposit. [Intentionally Omitted].

15. Indemnification. Licensee shall indemnify Licensor, its ground lessor/lessee (if any), shareholders, members, managers, trustees, officers, employees, representatives and agents (including, without limitation, Clarity Realty, Incorporated) against any and all liabilities, claims, fines, damages, actions, costs, and expenses of any kind or nature whatsoever (including reasonable attorneys' fees) relating to or arising out of (i) Licensee's use or occupancy of the Premises and/or (ii) Licensee's breach or default of any of Licensee's obligations hereunder. Licensee shall give Licensor prompt and timely notice of any claim made or suit instituted which in any way directly or indirectly, contingent or otherwise, affects or might affect Licensor, and Licensor shall have the right to compromise and defend any such claim or suit to the extent of Licensor's interest therein.

16. Limitation on Right of Recovery. Licensee agrees to look solely to the interest held by Licensor in the Parking Facility for the satisfaction of any claim arising from this License and shall not seek to impose personal liability on any shareholder, member, manager, trustee, officer, employee, representative or agent (including, without limitation, Clarity Realty Partners, LLC) of Licensor.

17. Liens. Licensee shall not suffer any mechanic's lien to be filed against the Premises or any other part of the Parking Facility by reason of any work, labor, services, or materials performed at or furnished to the Premises for Licensee or any person or entity holding the Premises through or under Licensee. If any such lien is placed upon the Premises or any other part of the Parking Facility, Licensee shall immediately cause such lien to be removed and, if Licensee shall fail to do so, Licensor may do so at Licensee's sole cost and expense.

18. Licensor's Access to Premises. Licensor reserves the right to enter upon the Premises at all reasonable hours for the purpose of inspecting the same, or inspecting the use thereof by Licensee, or for the purpose of making emergency repairs. The exercise by Licensor of any of its rights herein shall not be deemed to be an eviction or disturbance of Licensee's use and possession of the Premises.

19. Attorneys' Fees and Costs. Licensee agrees that if as a result of any default hereunder on the part of Licensee, Licensor shall be required, in the exercise of its sole discretion, to engage the services of an attorney to enforce compliance by Licensee with any of the terms, conditions and obligations hereof. Licensee shall reimburse Licensor for any and all reasonable legal fees and expenses, including costs of investigation and discovery, incurred by Licensor as a result of such default. All such attorneys' fees and costs incurred by the Licensor shall be due and payable on demand and shall bear interest at the rate of twelve percent (12%) per annum until paid.

20. Waiver of Jury Trial. LICENSOR AND LICENSEE EACH HEREBY WAIVES ANY AND ALL RIGHTS TO A TRIAL BY JURY OF ANY AND ALL ISSUES ARISING IN ANY CLAIM, ACTION, PROCEEDING, OR COUNTERCLAIM BETWEEN LICENSOR AND LICENSEE (OR THEIR SUCCESSORS, ASSIGNS, PERSONAL OR LEGAL REPRESENTATIVES OR HEIRS) UNDER OR IN CONNECTION WITH THIS LICENSE, ANY OF ITS PROVISIONS, THE USE OR OCCUPANCY OF THE PREMISES, THE RELATIONSHIP OF LICENSOR AND LICENSEE, AND/OR ANY CLAIM FOR INJURY OR DAMAGE. If either Licensor or Licensee is a partnership, this waiver shall be binding upon the parties of each as well. This waiver is knowingly, intentionally and voluntarily made by Licensor and Licensee, and Licensor and Licensee each acknowledge that neither Licensor nor Licensee, nor any person acting on behalf of Licensor or Licensee, has made any representations of fact to induce this waiver of trial by jury or in any way to modify or nullify its effect. Licensor and Licensee each further acknowledge that he, she, or it has had the opportunity to discuss this waiver with legal counsel prior to agreeing hereto.

21. Notice. Whenever any demand, request, approval, consent or notice ("Notice") is given by one party to the other, such Notice shall be addressed to such party at its following address and shall be served by (i) hand, (ii) a nationally recognized overnight express courier or (iii) registered or certified mail, return receipt requested. The date upon which the Notice shall be deemed to be received shall be the date of receipt thereof by the addressee; provided however, that if an addressee refuses to accept delivery, then Notice shall be deemed to have been received on either (i) the date that hand delivery is refused, (ii) the next business day after Notice was sent in the case of attempted delivery by overnight courier, or (iii) five (5) business days after the date of mailing of thereof in the case of service by registered or certified mail. Either party may, at any time, change its notice address by giving the other party Notice, in accordance with this Section 21, stating the change and setting forth the new address.

Licensor's Notice Address: 100 N. Crescent Dr., Suite 150 Beverly Hills, CA 90210

Licensee's Notice Address: \_\_\_\_\_

22. Miscellaneous. This License shall be governed, construed and enforced in accordance with the laws of the state in which the Parking Facility is located. This License contains all of the agreements between the parties hereto with respect to the subject matter hereof and may not be amended or modified except by an agreement in writing signed by all parties hereto. The terms, covenants and conditions contained herein shall inure to the benefit of and shall be binding upon the parties hereto, and their respective successors and assigns. The failure of Licensor to insist upon performance by Licensee of any of the terms, conditions and covenants hereof shall not be deemed to be a waiver of any rights or remedies that Licensor may have hereunder and shall not be deemed to be a waiver of any subsequent breach or default in any of the terms, conditions or covenants herein contained. Licensee shall not assign, mortgage, pledge or in any manner transfer this License or any interest herein, by operation of law or otherwise.

23. Counterparts. This license may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

The parties hereto have executed this License, effective as of the date first hereinabove written.

LANDLORD:

CLARITY PARTNERS LLC, a Delaware limited liability company

By: AC Hyde

Its: Operations Manager

Thompson Beverly Hills, dba Beverly Pavilion + Assoc.

TENANT:

THE THOMPSON HOTEL, a Corporation

By: RAM

Its: General Manager

**EXHIBIT "A"**

Site Plan

[to be attached]

## EXHIBIT "B"

### RULES AND REGULATIONS

Licensee expressly covenants and agrees to comply with the following:

1. Licensee shall: (i) keep the Premises clean at all times, including removal of debris and loose trash; (ii) maintain the Premises in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests; (vi) keep the Premises free of garbage and trash and remove the same from the Premises to containers approved by Licensor; and (vii) keep the outside areas adjacent to the Premises clean, orderly and free of rubbish, obstructions and merchandise.
2. Licensee shall not (i) suffer, allow or permit any vibration, noise, odor or flashing or bright light to emanate from the Premises or from any machine or other installation located therein, or otherwise suffer, allow or permit the same to constitute a nuisance to or interfere with the safety, comfort or convenience of Licensor or of any other occupant or user of the Parking Facility; (ii) display, paint, or place any handbills, bumper stickers or other advertising devices on any vehicle(s) parked in the parking area(s) of the Parking Facility, whether belonging to Licensee, its employee(s), or any other Person(s); (iii) solicit business or distribute any handbills or other advertising materials in the Common Areas; (iv) conduct or permit any activities in the Parking Facility that might constitute a public or private nuisance; (v) permit the parking of any vehicles or the placement of any displays, trash receptacles or other items, so as to interfere with the use of any driveway, fire lane, corridor, walkway, parking area, Commercial Building or any other Common Area; (vi) use or occupy the Premises or permit anything to be done therein which in any manner might cause injury or damage in or about the Parking Facility; (vii) use or occupy the Premises in any manner which is unreasonably annoying to other licensees, tenants or occupants of the Parking Facility unless directly occasioned by the proper conduct of Licensee's business in the Premises; or (viii) permit the accumulation of garbage, trash or other waste in or around the Premises or the Parking Facility.
3. Licensee shall use the plumbing within the Premises and the Parking Facility only for the purpose for which it is designed. Licensee shall be solely responsible for any breakage, stoppage or damage resulting from its violation of this provision, and shall pay any costs associated therewith to Licensor upon demand.
4. Licensee shall not store, display, sell, or distribute any alcoholic beverages, dangerous materials, flammable materials, explosives, or weapons in the Premises, or conduct any unsafe activities therein, unless permitted pursuant to the Permitted Use.
5. Except to the extent permitted in accordance with the Permitted Use, Licensee shall not sell, distribute, display or offer for sale (i) any paraphernalia commonly employed in the use or ingestion of illicit drugs, or (ii) any X-rated, pornographic, lewd, or so-called "adult" newspaper, book, magazine, film, picture, video tape or video disk.
6. Licensee shall not operate or permit to be operated in the Premises any automatic teller machines, or any coin or token operated vending machine or similar device including telephones, lockers, toilets, scales, amusement devices, and machines for the sale of beverages, foods, candy, cigarettes or other goods.
7. No radio or television aerial or other device may be erected by Licensee on the roof or on any exterior wall of the Premises, or the building in which the Premises is located, without Licensor's prior written consent. Any aerial or other device installed without such written consent shall be subject to removal by Licensor, at Licensee's sole risk and expense, without notice.
8. Licensee shall locate its trash receptacle adjacent to the rear wall of the Premises or in such other area designated or approved by Licensor. In the event Licensor should determine, at its option, to require Licensee to use a designated trash receptacle or trash removal service ("service") in common with other licensees, tenants or occupants of the Parking Facility, Licensee shall use such designated service. Licensee further agrees to pay for such service directly to the provider of such service, or to reimburse Licensor for

9. Licensee shall not install, operate or maintain in the Premises, or in any other part of the Parking Facility, electrical equipment which would overload the electrical system or any part thereof beyond its capacity for proper, efficient and safe operation.

10. Licensee shall maintain the temperature in the Premises to prevent freezing of plumbing lines and fixtures.

# ***ATTACHMENT 6***

## ***Parking Demand Analysis***

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**THOMPSON BEVERLY HILLS  
HOTEL REMODELING PLAN  
PARKING ANALYSIS  
BEVERLY HILLS - CALIFORNIA**

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Prepared for:

**THOMPSON BEVERLY HILLS HOTEL  
Beverly Hills, California**

Prepared on:

**May 19, 2010**



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***COCO TRAFFIC PLANNERS, INC.***

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**THOMPSON BEVERLY HILLS HOTEL  
REMODELING PLAN  
PARKING ANALYSIS  
BEVERLY HILLS - CALIFORNIA**

Prepared for:

**THOMPSON BEVERLY HILLS HOTEL**

Prepared on:

**May 19, 2010**

Prepared by:

**COCO TRAFFIC PLANNERS, INC.**

10835 Santa Monica Boulevard, Suite 202

Los Angeles, California 90025

Ph: (310) 470-4870 • Fax: (310) 470-0399

E-mail: ASCOCOENG@AOL.COM



# **COCO TRAFFIC PLANNERS, INC.**

**TRAFFIC • DESIGN • PARKING • MODELING • URBAN PLANNING**

10835 Santa Monica Blvd., Suite 232 • Los Angeles, California 90025 • Ph: (310) 470-4870 • Fax: (310) 909-8851 • E-mail: info@cocotraffic.com

May 19, 2010

Mr. Mitchell Dawson  
Dawson, Titem & Gole  
9454 Wilshire Bl, Penthouse  
Beverly Hills, California 90212

**Subject: THOMPSON BEVERLY HILLS HOTEL REMODELING PLAN PARKING  
ANALYSIS • BEVERLY HILLS, CALIFORNIA**

Dear Mr. Dawson,

As authorized, we have conducted a comprehensive parking analysis associated with the subject Thompson Beverly Hills Hotel (TBH), located in the City of Beverly Hills, California. Specifically, we evaluated the parking demand associated with the hotel's proposed remodeling plan. The purpose of the analysis is to determine the adequacy of the project's parking supply to support the remodeling plan. The general scope of work was determined through discussions with Mr. Ryan Gohlich, Planner of the Engineering and Planning Departments of the City of Beverly Hills. This letter-report contains the findings and conclusions of our study with necessary supporting data.

The Thompson Beverly Hills Hotel is located at 9360 Wilshire Boulevard, in the City of Beverly Hills. The hotel has 107 rooms, and offers ancillary services to its guests and, in a limited way to the public. The hotel is supported by a 131 parking stall on site facility with valet parking. In addition, the hotel leases about 250 stalls from a nearby parking garage, for use after 6:00 PM. Access to site, and to the parking facility is provided by a driveway on Wilshire Boulevard.

For the purpose of our analysis the services provided by the hotel relate to: 1) Prior restaurant operator Bond St, a restaurant and sushi bar with outdoor patio, located at the ground floor; 2) A mezzanine lounge and bar; and 3) A 2-level roof deck with swimming pool and bar. The proposed project consists of remodeling these areas in order to increase their capacities. No increase in square footage will result from the proposed project, except for a 426 square feet (sf) of new sidewalk dining, associated with the ground floor restaurant. It should be noted that while the above mentioned mezzanine lounge and bar has been in operation for about three years, previously it was not included in the calculation of capacities. Since the City of Beverly Hills now requires its inclusion, for occupancy purposes our analysis evaluated the subject mezzanine lounge and bar as new space.

Table 1 shows the project's occupancy for the various areas of the hotel involved in the remodeling. The data provided relates to the existing, as well as to the proposed

scenarios. As indicated in Table 1, the project currently provides a total of 194 seats, over 5,564 sf. The proposed scenario increases the occupancy by 147 seats, to a total of 341 seats. The square footage will increase by 1,188 sf. to a total of 6,752 sf.

Table 1 also shows the peak parking demand for the hotel and for each one of the services provided. The hotel parking demand was based upon the Saturday peak parking demand for hotels, obtained with a parking generation factor of 0.86 stalls per room. The value was derived from the ITE Parking Generation Manual, 3rd Edition for "Business Hotels", which shows a peak factor of 0.75 stalls per room, at full occupancy. In order to evaluate the project's parking demand under a "worst case scenario", that value was increased by 15 percent to 0.86 stalls per room, which yields a peak parking demand of 92 stalls for the hotel.

The parking needs of the other services involved in the remodeling were evaluated by establishing a relationship between the number of seats provided and the number of parking stalls needed. The average number of people per car, or average vehicle occupancy, reflects the subject relationship. Specifically, if the average vehicle occupancy were 3.0 people per car, then one parking stall would be needed for every three people, or seats.

An average vehicle occupancy of between 2.5 and 3.0 people per car can be expected during weekdays at the TBH, and in general, in this area of Beverly Hills. Our analysis used the more conservative value of 2.05 people per car during weekdays, found by the 2001 National Household Travel Survey, of the US Department of Transportation, for social/recreational trip purposes. The Saturday average vehicle occupancy used in the analysis also was a conservative 2.5 people per car. With this assumption, Table 1 shows that the subject services currently require 95 stalls, and 166 stalls after the remodeling. Therefore, under existing conditions, the project, including the hotel, requires a grand total of 187 parking stalls. The proposed remodeling will increase the parking demand by 71 stalls, for a total of 258 parking stalls.

It should be noted that the above parking demand consists of the sum of the peak parking needs for the hotel's individual service uses. This constitutes a worst case scenario, due to the potential for "synergy" between the different service uses. An example of that would be a patron eating at the restaurant, and then using the rooftop bar, or a hotel guest using the sushi bar, both requiring no additional parking stalls. The subject synergy was not accounted for in our analysis consequently, future project parking conditions will be better than those found by our analysis.

In addition, the subject peaks do not necessarily fall within the same hour. In order to verify the adequacy of the proposed parking supply to support the intended uses throughout the day we conducted a shared parking analysis. The shared parking occurs when two or more different uses are allowed to share the same parking stall and use it during different times of the day. The shared parking analysis shows how a project can satisfy its parking demand with a number of stalls that is lower than the sum of the various uses' parking needs if they were independent. The data used in our



analysis was provided by the Urban Land Institute (ULI) which presented a report on the subject, in the September 1983 Volume of the publication URBAN LAND. The article, "Shared Parking Demand For Selected Land Uses", provides weekdays and Saturdays peak parking demand factors for the various land uses analyzed. In addition, the study shows the fluctuation of the parking demand throughout the day and the months of the year, as a percentage of the peak demand. The data used in our analysis relates to the land uses Hotel, Restaurant, and Restaurant/Lounge.

Tables 2 and 3 show the results of the shared parking analysis for the existing and the future conditions respectively. As indicated in Table 2, the TBH currently has a peak weekday shared parking need of 171 stalls occurring both at 8:00 and 9:00 PM. The "without shared parking" condition shows a peak parking need of 175 stalls. The Saturday peak shared parking need was calculated at 185 stalls occurring at 9:00 PM. The "without shared parking" condition shows a peak of 187 stalls.

Similarly, Table 3 shows that the proposed project accumulation will peak at 9:00 PM with 215 stalls for the weekday shared parking scenario, and 228 stalls for the Saturday shared parking scenario. The "without shared parking" conditions show the peak parking need occurring also at 9:00 PM, with 216 weekday stalls, and 228 Saturday peak parking stalls. It is common engineering practice to increase the peak demand value by a certain percentage to reach the design value. The increase allows for a parking vacancy rate or to accommodate potential short term peaks. Assuming a 10 percent vacancy rate, Table 3 shows the recommended parking design value for the proposed remodeling development at about 251 parking stalls.

As indicated earlier, the Thompson Beverly Hills Hotel provides valet parking with a total of 131 parking stalls on site. The hotel also leases 250 stalls from a nearby parking garage, for use after 6:00 PM, for a total of 381 stalls. This means that the proposed project's parking supply will be about 52 percent greater than the above recommended supply. It should be noted that a potential shortage of about 4 parking stalls may result during the 5:00 to 6:00 PM period, at a time when the off site parking may not be available yet. This shortage may be addressed by the valet, by temporarily stacking vehicles within the valet staging area. However, since our parking analysis was conducted under a "worst case scenario", the probability of the subject shortage ever occurring is very limited. No parking overflow on the public right-of-way is expected as a result of the development of the proposed Thompson Beverly Hills Hotel remodeling plan.

\* \* \* \* \*

**SUMMARY AND CONCLUSIONS**

The Thompson Beverly Hills Hotel located at 9360 Wilshire Boulevard, in the City of Beverly Hills, California has been proposed for renovation. The proposed plan consists of remodeling certain areas where the hotel provides ancillary services, for the purpose of increasing their capacities. A net total of 426 sf of new sidewalk dining associated with the ground floor restaurant will be added as a result of the proposed plan. No change is anticipated in the on-site parking supply, which will maintain the current level of 131 parking stalls with valet parking. In addition, 250 stalls from a nearby parking garage are available to valet parkers after 6:00 PM, for a total of 381 parking stalls. Access to site, and to the parking facility is provided by a driveway on Wilshire Boulevard.

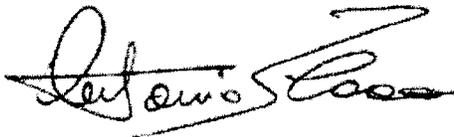
It was found that the Thompson Beverly Hills Hotel will normally have about 52 percent more supply, 381 parking stalls, than its peak demand of 251 parking stalls. After implementation of the proposed remodeling plan, the hotel will have an adequate supply of parking to satisfy the future project's demand throughout the day, and in most conditions of high parking demand. It is therefore expected that no parking overflow on public streets will result from the development of the proposed project.

\* \* \* \* \*

Please call me if you have any questions with regard to our study. It has been a pleasure to serve you on this most interesting project.

Very truly yours,

**COCO TRAFFIC PLANNERS, INC.**



Dr. Antonio S. Coco, P.E.  
President

ASC/mp  
#2K1025PK



TABLE 1

PEAK PROJECT OCCUPANCY  
Thompson Beverly Hills Hotel Remodeling Plan Parking Analysis - Beverly Hills

TYPE OF SERVICE USE	EXISTING			PROPOSED			NET CHANGE			
	Size	Unit	Size	Unit	Size	Unit	Size	Unit	Size	Unit
Hotel	107	Rooms	N/A	107	Rooms	N/A	0	Rooms	0	SF
Ground Floor										
Restaurant	62	Seats	900	62	Seats	900	0	Seats	0	SF
Sushi Bar	8	Seats	345	0	Seats	345	-8	Seats	0	SF
Patio	32	Seats	500	32	Seats	500	0	Seats	0	SF
Sidewalk Dining	N/A	Seats		35	Seats	426	36	Seats	426	SF
Mezzanine										
Lounge Bar	N/A	Seats	N/A	20	Seats	650	20	Seats	650	SF
Bar	N/A	Seats	N/A	6	Seats	112	6	Seats	112	SF
Roof Deck										
Pool - Cabana	35	Seats	1436	70	Seats	1436	35	Seats	0	SF
Bar	57	Seats	2383	115	Seats	2383	58	Seats	0	SF
Total	107	Rooms	N/A	107	Rooms	N/A	0	Rooms	N/A	SF
Hotel Services	194	Seats	5,564	341	Seats	6,752	147	Seats	1,188	SF
Parking Needs - Hotel	92	Stalls		92	Stalls		0	Stalls		
Services	95	Stalls		166	Stalls		71	Stalls		
Grand Total	187	Stalls		258	Stalls		71	Stalls		

\* Parking Needs are based upon an average occupancy of 2.05 persons per vehicle, and the peak Saturday hotel occupancy of 0.66 stalls per room.

TABLE 2

EXISTING PROJECT SHARED PARKING ANALYSIS  
 Thompson Beverly Hills Hotel Reconfiguring Plan Parking Analysis - Beverly Hills

LAND USE	Hotel		Restaurant/Sushi Bar		Patio Dining (1st Fl)		Mixd. Lounge (2nd Fl)		Roof Deck		Sidewalk Dining		TOTAL STALLS
	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	
MEETING	0.75	80	0.40	34	0.40	15	0.40	0	0.40	45	0.40	0	
<b>WEEKDAY</b>													
12:00 AM		80						0		11			91
1:00 AM		80						0		5			85
2:00 AM		80						0					80
3:00 AM		80											80
4:00 AM		80											80
5:00 AM		80											80
6:00 AM		68				0							68
7:00 AM		52		1		0						0	53
8:00 AM		44		2		1						0	47
9:00 AM		36		3		2						0	41
10:00 AM		28		7		3						0	38
11:00 AM		24		10									34
12:00 PM		24		17		8						0	40
1:00 PM		26		24		11						0	63
2:00 PM		26		20		10						0	56
3:00 PM		36		20									56
4:00 PM		48		17				0					65
5:00 PM		56		24				0		41			121
6:00 PM		60		31		14		0		45		0	150
7:00 PM		72		34		16		0		45		0	167
8:00 PM		78		34		16		0		45		0	171
9:00 PM		80		34		16		0		41		0	171
10:00 PM		80		31		14		0		32		0	157
11:00 PM		80		24		11		0		23		0	138
<b>PARKING NEED WITH SHARED PARKING:</b>												171	
<b>PARKING NEED WITHOUT SHARED PARKING:</b>												175	
<b>SATURDAY</b>													
TIME	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	TOTAL STALLS
	0.75	82	0.40	34	0.40	15	0.40	0	0.40	45	0.40	0	
12:00 AM		92						0		14			106
1:00 AM		92						0		7			99
2:00 AM		92						0					92
3:00 AM		92											92
4:00 AM		92											92
5:00 AM		83											83
6:00 AM		64				0							64
7:00 AM		55		1		0						0	56
8:00 AM		46		1		1						0	47
9:00 AM		37		2		1						0	40
10:00 AM		32		3		1						0	36
11:00 AM		28		29									57
12:00 PM		28		31		14						0	73
1:00 PM		32		31		15						0	78
2:00 PM		37		29		14						0	80
3:00 PM		46		15									61
4:00 PM		55		15				0					70
5:00 PM		64		20				0		41			125
6:00 PM		74		31		14		0		43		0	162
7:00 PM		83		32		15		0		45		0	175
8:00 PM		87		34		16		0		45		0	182
9:00 PM		92		34		16		0		43		0	185
10:00 PM		92		32		15		0		38		0	177
11:00 PM		92		29		11		0		32		0	167
<b>PARKING NEED WITH SHARED PARKING:</b>												185	
<b>PARKING NEED WITHOUT SHARED PARKING:</b>												187	
<b>RECOMMENDED PARKING SUPPLY:</b>												204	

Note: Recommended parking supply assumes a 10% parking vacancy factor.  
 The asterisk (\*) indicates the occurrence of a peak. The dotted line indicates the time when the off site parking is available.

TABLE 3

PROPOSED PROJECT SHARED PARKING ANALYSIS  
Thompson Beverly Hills Hotel Remodeling Plan Parking Analysis - Beverly Hills

LAND USE SIZE - UNIT	Hotel		Restmnt/Sushi Bar		Patio Dining (1st Fl)		Mezz. Lounge (2nd Fl)		Roof Deck		Sidewalk Dining		TOTAL STALLS
	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	
BEGINNING @	0.75	80	0.40	25	0.40	13	0.40	10	0.40	74	0.40	14	
<b>WEEKDAY</b>													
12:00 AM		80	-	-	-	-	-	3	-	0	-	-	83
1:00 AM		80	-	-	-	-	1	-	0	-	-	-	81
2:00 AM		80	-	-	-	-	0	-	-	-	-	-	80
3:00 AM		80	-	-	-	-	-	-	-	-	-	-	80
4:00 AM		80	-	-	-	-	-	-	-	-	-	-	80
5:00 AM		80	-	-	-	-	-	-	-	-	-	-	80
6:00 AM		68	-	-	-	-	-	-	-	-	-	-	68
7:00 AM		52	-	1	-	0	-	-	-	-	-	0	53
8:00 AM		44	-	1	-	1	-	-	-	-	-	1	47
9:00 AM		36	-	3	-	1	-	-	-	-	-	1	41
10:00 AM		28	-	5	-	3	-	-	-	-	-	3	39
11:00 AM	Nn	24	-	8	-	-	-	-	-	-	-	-	32
12:00 PM		24	-	13	-	7	-	-	-	-	-	7	51
1:00 PM		28	-	18	-	9	-	-	-	-	-	10	65
2:00 PM		28	-	15	-	8	-	-	-	-	-	8	59
3:00 PM		36	-	15	-	-	-	-	-	-	-	-	51
4:00 PM		48	-	13	-	-	-	7	-	-	-	-	68
5:00 PM		56	-	16	-	-	-	9	-	52	-	-	135
6:00 PM		60	-	23	-	12	-	10	-	67	-	13	185
7:00 PM		72	-	25	-	13	-	10	-	74	-	14	208
8:00 PM		76	-	25	-	13	-	10	-	74	-	14	212
9:00 PM		80	-	25	-	13	-	8	-	74	-	14	215
10:00 PM		80	-	23	-	12	-	7	-	67	-	13	202
11:00 PM	Mid	80	-	18	-	9	-	5	-	52	-	10	174
<b>PARKING NEED WITH SHARED PARKING:</b>												<b>215</b>	
<b>PARKING NEED WITHOUT SHARED PARKING:</b>												<b>218</b>	
<b>SATURDAY</b>													
TIME	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	Rate	Stalls	TOTAL STALLS
	1.85	92	0.40	25	0.40	13	0.40	10	0.40	74	0.40	14	
12:00 AM		92	-	-	-	-	-	3	-	0	-	-	95
1:00 AM		92	-	-	-	-	-	2	-	0	-	-	94
2:00 AM		92	-	-	-	-	-	0	-	-	-	-	92
3:00 AM		92	-	-	-	-	-	-	-	-	-	-	92
4:00 AM		92	-	-	-	-	-	-	-	-	-	-	92
5:00 AM		83	-	-	-	-	-	-	-	-	-	-	83
6:00 AM		64	-	-	-	-	-	-	-	-	-	-	64
7:00 AM		55	-	1	-	0	-	-	-	-	-	0	56
8:00 AM		46	-	1	-	0	-	-	-	-	-	0	47
9:00 AM		37	-	2	-	1	-	-	-	-	-	1	41
10:00 AM		32	-	2	-	1	-	-	-	-	-	1	36
11:00 AM	Nn	28	-	21	-	-	-	-	-	-	-	-	49
12:00 PM		28	-	23	-	12	-	-	-	-	-	13	76
1:00 PM		32	-	23	-	12	-	-	-	-	-	13	80
2:00 PM		37	-	21	-	11	-	-	-	-	-	12	81
3:00 PM		46	-	11	-	-	-	-	-	-	-	-	57
4:00 PM		55	-	11	-	-	-	6	-	-	-	-	72
5:00 PM		64	-	15	-	-	-	9	-	44	-	-	132
6:00 PM		74	-	23	-	12	-	10	-	67	-	13	199
7:00 PM		83	-	24	-	12	-	10	-	70	-	13	212
8:00 PM		87	-	25	-	13	-	10	-	74	-	14	223
9:00 PM		92	-	25	-	13	-	10	-	74	-	14	226
10:00 PM		92	-	24	-	12	-	9	-	70	-	13	220
11:00 PM	Mid	92	-	21	-	11	-	7	-	63	-	12	208
<b>PARKING NEED WITH SHARED PARKING:</b>												<b>228</b>	
<b>PARKING NEED WITHOUT SHARED PARKING:</b>												<b>228</b>	
<b>RECOMMENDED PARKING SUPPLY:</b>												<b>251</b>	

Note: Recommended parking supply assumes a 10% parking vacancy factor.  
The asterisk (\*) indicates the occurrence of a peak. The dotted line indicates the time when the off site parking is available.



# ***ATTACHMENT 7***

## ***Rooftop Noise Study/Analysis***



May 19, 2010

**Titem Gole & Dawson**  
9454 Wilshire Blvd., Penthouse  
Beverly Hills, CA 90212

Attention: Mr. Mitchell J. Dawson

Subject: **Thompson Hotel, Beverly Hills, CA**  
**Rooftop Occupancy Increase- Noise Study**  
**VA Project No. 4580-002**

Dear Mr. Dawson:

At present the maximum allowed occupancy for the roof top pool area of Thompson Hotel in Beverly Hills is 92. Thompson Hotel is proposing to increase the occupancy to a maximum of 185 guests. Veneklasen Associates (VA) performed a detailed noise impact analysis for the original plan and provided recommendation for mitigating any possible noise impact in the residential areas adjacent to the hotel. These measures were included in a report and were submitted to the Planning Department of the City as part of application for securing the necessary approvals. The noise impact analysis was based on the maximum occupancy of 92 guests and also the architectural design of the roof top pool area. Specific recommendations were provided for installation and operations the sound system for this area. The speakers were to be installed at the base of the perimeter wall around the pool area. Also the produced sound levels were to be balanced to impart minimal or no impact at the residential areas.

However a number of speakers were installed incorrectly at the top of cabanas with direct lines of sights to the residences. Also portable sound systems were used on occasions. Consequently the produced sounds by speakers were audible at the residences and have been a source of complaint. Similarly the portable sound systems that can produce loud sounds have also engendered complaints. Any such sound systems can and need be controlled by lock box now in place.

In order to mitigate these impacts we recommended removing the speakers which were incorrectly installed at the top of cabanas. Additionally we proposed limiting the sound volume, in accordance with the previously determined levels. In the original study for this area, the noise level limits had been established. We adjusted the gain of the sound system such that the produced sounds were in conformance with the established criteria. The access to the gain settings of the system must also be prohibited to assure the levels remain unchanged. To accomplish this, we proposed providing a secure enclosure for the volume control system. The hotel has placed a lock box over the gain controls so the sound level cannot be altered and will remain as adjusted, in compliance with the adopted criteria.

After implementation of these changes, we inspected the sound system and determined that sound levels were within the adjusted limiting levels. During the operation of the system we visited a number of locations during nighttime periods around the hotel to observe if the produced sound is audible with adverse impacts. None was detected.



Veneklasen Associates

As stated above the original analysis was based on a maximum occupancy of 92 guests in the pool area. The produced sounds due to this maximum level of occupancy were estimated and compared to the documented ambient noise levels at the residential areas. Based on this analysis we determined that these sounds will be inaudible and will have no impact. In fact this conclusion has been verified for normal operations of the roof top pool area.

The expected noise level in the alleyway behind the hotel was estimated to be 30.8 dBA for the maximum occupancy of 92 guests. This level will increase to 33.8dBA, if the occupancy is increased to 185 guests. The minimum measured nighttime ambient noise level at this location was 53.8 dBA which is 20 decibels higher than the noise level for 185 guests. Since the maximum expected noise levels due to roof top activities are at least 20 decibels below the minimum ambient levels, they will not be audible and no impacts are expected.

If you have any questions concerning the information contained in this report please do not hesitate to contact me

Sincerely,

**Veneklasen Associates, Inc.**

Hooshang Khosrovani, Ph.D., P.E.  
Associate principal

G:\firm\goldrison\thompson hotel occupancy increase\10hk001

February 2, 2006

**TILEM GOLE & DAWSON**  
9454 Wilshire Boulevard, Penthouse  
Beverly Hills, California 90212

Attention: Mr. Mitchell Dawson

**Subject: Beverly Pavilion Hotel**  
**Acoustical Analysis Study for the Proposed Rooftop Pool Area**  
**V.A. Project No. 1770-006**

Dear Mr. Dawson:

Veneklasen Associates, Inc. (VA) has completed an acoustical analysis study for the proposed improvement plans for the rooftop pool area of the Beverly Pavilion Hotel in Beverly Hills, California. The purpose of this study was to assess the impact of the proposed improvement on the surrounding areas of the hotel and determine if the expected sound levels, due to the normal operation of the pool area, are in compliance with the City of Beverly Hills Noise Ordinance standards.

A long-term noise survey was conducted at a point on the south property line of the hotel premises. This location was selected due to the immediate proximity to the nearest residences. These residential units are considered most sensitive sound receptors due to hotel activities. The survey started at 3:30 p.m. on October 6, 2005 and was completed at 11:30 a.m. on October 11, 2005. During this period the noise levels were continuously measured and recorded. The levels were measured in 15 minute intervals. Average noise levels, maximum and minimum levels, and other statistical levels were documented during this period. Additionally, the spectral contents (in octave frequency bands) of the signals were analyzed and documented. The City of Beverly Hills Noise Ordinance standards require limits on the overall levels in addition to limits on spectral contents of the noise (as measured in octave frequency bands). According to the standard the levels must not exceed 5 decibels above the existing ambient conditions. Therefore the analysis was performed in accordance with the City's standards.

We also performed noise reduction tests (NR) between the roof area and various locations around the site. These NR values are necessary to estimate the expected sound levels at various locations around the site with reasonable and realistic degrees of accuracy. This phase of work was accomplished by generating high noise levels on the roof top and performing ground level measurements at various receptor locations.

We also reviewed the proposed plan for improvement of the pool area. These plans call for installation of clear glass wind screens both at the pool deck and roof level areas. The maximum expected occupancy of the combined pool deck and on the roof which may be used by hotel patrons is 92. These plans and information, along with the measured NR values and ambient noise levels, were used as the basis of the analysis for estimating and evaluating the impact of the activities at receptor residential locations.

The results of the analysis are summarized in Table 1. The expected sound levels are shown along with the measured ambient conditions. As it is observed the expected sound levels are in compliance with the City's noise standards. The standard stipulates that the sound level must not exceed the ambient conditions by more than five decibels. The spectral content of the expected noise levels will also be below the measured ambient levels by at least ten decibels in all octave bands. These exceedances of ambient conditions above the expected levels indicate that the sound levels are essentially inaudible at the receptor locations.

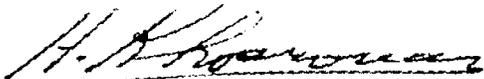
No live music, which usually involves the use of sound amplification equipment, will be performed on the roof or pool deck areas. A background music system is planned which will be controlled at levels which will not interfere with normal speech communications. The operation of a background noise system produces sound which are lower than the sounds due to the conversation levels and therefore will have no impact on the receptor locations.

In summary we conclude that the normal use of the roof and pool deck by the hotel patrons at its maximum capacity, in addition to the background noise sounds, will not adversely impact the residential and sensitive locations around the hotel premises. These conclusions are based on actual field measurements and the proposed plans for this project.

If you have any questions concerning the information contained in this report, please do not hesitate to contact me.

Sincerely,

**Veneklasen Associates, Inc.**



Hooshang Khosrovani, Ph.D., P.E.  
Associate Principal

GA1770-006/06hk.001

**Table 1**  
**Results of Analysis for Rooftop and Pool Deck Activities**  
**Beverly Pavilion Hotel**

Location	Expected Sound Levels	Measured Ambient Levels (see note 1)
In the alley behind the hotel	30.8	53.8
At 120 Crescent	33.0	62.7
At 140 Crescent	32.3	60.2
At 151 Crescent	29.3	59.7
At 157 Cannon	28.3	58.0
At 145 Cannon	30.7	59.6
At 121 Cannon	28	55.9

**Notes:**

1. The reported level at Alley location is the minimum measured noise level at this same location. Other levels are typical ambient conditions at the respective locations.
2. The spectral contents of sound (in octave frequency band) were lower by at least 10 decibels for all cases. These differences indicate that the expected sounds are masked effectively and are not audible to people with normal sensitivity to sound.
3. The expected levels are based on full occupancy (92 patrons). It is also assumed that 46 persons are talking normally in the same direction simultaneously and others are listening. The estimates do not take into account reductions due to various intervening equipment such as cabanas, chairs, etc. therefore these levels are conservative estimates.



February 15, 2006

Danny Castro  
City of Beverly Hills  
Planning Department  
455 North Rexford Drive, G-40  
Beverly Hills, CA 90210

Re: Peer Review of the Acoustical Analysis for the Proposed Rooftop Facilities at the Beverly Pavilion Hotel

Dear Mr. Castro,

Per your request, Terry A. Hayes Associates LLC (TAHA) has reviewed the acoustical analysis prepared by Veneklasen Associates, Inc. (VA) for the proposed rooftop gymnasium and expansion of the existing rooftop pool deck area at the Beverly Pavilion Hotel, located at 9360 Wilshire Boulevard in the City of Beverly Hills.

The acoustical analysis letter prepared by VA summarizes the approach that VA used to conduct the acoustical analysis, as well as the results of the acoustical analysis. VA estimated noise levels at seven locations: the alley behind the hotel and at six residential uses south of the hotel. VA's analysis concluded that noise levels from rooftop activities would range from 28 decibels (dBA) to 33 dBA at the seven locations. Additionally, use of the rooftop facilities would not have an adverse noise impact on residential uses to the south of the hotel since the generated noise levels, when combined with background sound levels, would be inaudible at the residences.

To reach this conclusion, VA conducted a noise survey on the hotel premises from 3:30 p.m. on October 6, 2005 to 11:30 a.m. on October 11, 2005. Noise levels from this noise survey was measured in 15 minute intervals, and VA used the minimum measured noise level as a basis to estimate noise impacts associated with the use of the proposed rooftop facilities. VA also conducted noise reduction tests between the hotel roof and at various locations south of the hotel to estimate the expected sound levels during the use of the proposed rooftop facilities. When estimating noise levels, VA did not account for noise reductions associated with intervening equipment, such as cabanas, chairs, etc. VA assumed that background music would be played on the roof but no sound amplification equipment would not be used and no live music would be performed. VA indicated that noise from the background music would be lower than noise from conversations and, thus, would not result in a noise impact on nearby residences. VA estimated noise levels assuming that the rooftop would have a maximum occupancy of 92 people. In the acoustical analysis, VA assumed that 46 people would be talking normally and simultaneously while the other 46 people are listening.



Terry A. Hayes Associates LLC  
8522 National Boulevard, Suite 102  
Culver City, CA 90232  
310.839.4200 fax 310.839.4201  
w e b t a h a . c o m

The methodology used by VA to determine noise impacts appears reasonable. However, it is unclear whether VA considered the various issues that are associated with placing recreational uses on the hotel roof, such as people conversing louder than normal, noise impacts during different times of the day, and how the organization of the proposed uses and equipment/accessories on the rooftop would affect noise levels at the residences. Additionally, the acoustical analysis letter lacks sufficient technical detail in regards to the assumptions that were used to estimate noise impact of the proposed rooftop facilities. As such, we are unable to verify the conclusions of the acoustical analysis. The following information needs to be provided and clarified in the acoustical analysis before we can verify the conclusions of the acoustical analysis:

- In the first sentence of the second paragraph of the acoustical analysis, VA states that "a long-term noise survey was conducted at a point on the sound property line of the hotel premises." Does VA mean to say that the noise survey was conducted on the southern perimeter of the hotel premises? Was the noise reading taken at the rooftop or at ground level?
- The acoustical analysis states that sound levels were measured at a point on the hotel premises. However, Table 1 provides measured ambient noise levels at the alley and at six residences south of the hotel. VA needs to clarify how noise levels at the alley and at the six residences were derived?
- Residential uses located to the south of the hotel are two to four stories in height. When the hotel roof is being used, residences at the higher levels would likely be exposed to higher noise levels than the first-story residences since residences at the higher levels are closer to the hotel roof. VA needs to clarify whether noise levels at the higher levels were estimated? If VA did not estimate noise levels at the upper stories, noise levels would need to be estimated at these levels.
- Although VA estimated noise levels at various residential uses south of the hotel, it appears that noise levels were not estimated at the residential uses directly behind the hotel (120 Cannon and 121 Crescent). What are the noise levels at these residential uses (particularly on the second story) when the rooftop facilities are in use?
- Were the estimated noise levels calculated assuming that there is a direct line of sight between the noise source on the rooftop and the residences south of the hotel?
- The acoustical analysis letter states that noise reduction tests were conducted to estimate the expected sound levels at various locations around the Beverly Pavilion Hotel with a reasonable and realistic degree of accuracy. The noise reduction tests were accomplished by generating high noise levels on the roof and conducting ground level measurements at sensitive receptors. Was the noise generated along the southern perimeter of the hotel roof? How loud was the generated noise? At what reference distance was this generated noise measured? Based on the noise reduction tests, what is the noise attenuation between the hotel roof and the sensitive receptors? Was the noise attenuation estimated at the ground level or at the upper level residential uses?
- What did VA assume as the estimated noise level of 42 people speaking simultaneously? What is the reference distance of this noise level? Given that recreational uses (pool and gymnasium) are proposed on the hotel roof, it is likely that people using the facilities would speaking louder than normal (e.g., people near the southern perimeter of the hotel roof could be yelling to those who are at the pool). Was this situation taken into consideration in the acoustical analysis? If not, the acoustical analysis needs to consider noise impacts associated with people speaking louder than normal on the hotel roof.

- What time of day were the noise levels estimated? Since ambient noise levels would vary depending on the time of day, we recommend that the acoustical analysis discuss noise impacts associated with using the rooftop facilities during the morning, afternoon, early evening, and late evening.
- How would the organization of the proposed uses and equipment/accessories on the rooftop affect noise levels at the residences? What barriers would exist between the perimeter of the rooftop facilities and how would the barriers affect noise propagation?

The information requested above would provide us with the necessary technical details to verify the conclusions of the acoustical analysis. The requested information would also address various noise issues associated with the use of the proposed rooftop facilities. Please contact Terry Hayes or me if you have any questions.

Sincerely,



Teresa Li, AICP  
Senior Planner

March 3, 2006

**TILEM GOLE & DAWSON**  
9454 Wilshire Boulevard, Penthouse  
Beverly Hills, California 90212

Attention: Mr. Mitchell Dawson

**Subject: Beverly Pavilion Hotel**  
**Response to Peer Review of Acoustical Analysis Report**

Dear Mr. Dawson:

We are in receipt of the peer review report of our acoustical analysis report prepared by Terry A. Hayes Associates (TAHA). The purpose of our report was to assess the impact of the rooftop pool improvement project on the residential areas around the Beverly Pavilion Hotel. The purpose of this letter is to respond to the questions asked in TAHA's peer review report. The following paragraphs contain our response to the comments in that report.

**Item 1.** The measurements were performed at the southern perimeter of the building. The measurement location was at the second floor elevation of the residential unit across the alley. The second floor area of this particular residence is considered as the most sensitive area and for this reason the survey was performed at this location. The survey was long-term (from 3:30 p.m. on October 6, 2005 to 11:30 a.m. of October 11, 2005). The records of these measurements are included in a spreadsheet attached to this letter.

**Item 2.** A number of short-term noise measurements were performed at the six residential locations for establishing ambient conditions. The results of these measurements have been shown in the original report. Since the second floor area of the residence across the alley which is located to the south perimeter of the hotel is considered the most sensitive noise receptor, the lowest measured level (from the results of the long-term survey) was chosen as the ambient conditions for this particular location.

**Item 3.** The noise levels due to activities at the proposed pool area were estimated at the ground level. This was due to the fact that the Noise Reduction (NR) values were measured at the ground location. The levels at the second level areas are slightly higher since the distance to the pool areas is somewhat shorter. The second floor areas of the residential unit across the alley are closer to the roof areas by about 20 feet as compared to a point at the ground level. The increase in the noise levels due to this distance differential is about 2 decibels (i.e. the second floor areas will experience noise levels which are about 2 decibels higher than the ground level areas noise levels). It needs to be noted that the increase (or decreases) in levels of less than 3 decibels is not generally detected by human ear. Furthermore, as it will be seen later, the resulting levels at second floor elevations will still be well below the ambient levels and therefore these differences are immaterial.

**Item 4.** We have estimated the expected noise levels at 120 Crescent and 121 Canon. We expect the noise levels at 121 Crescent and 120 Canon will be about the same levels as those which will be experienced at 120 Crescent and 121 Canon. The relative positions of these residences to the rooftop area of the hotel will not result in marked and measurable differences in levels.

**Item 5.** The estimates were based on the proposed design of the pool area. The new pool area will be provided with a 7'-8" high translucent barrier wall. This configuration was used in estimating the noise levels at various locations. There will be no direct line of sight from the pool area to any location at the ground level or the second floor spaces of the adjacent structures.

**Item 6.** The high noise levels during the tests were generated at the pool deck area, where the future noise sources are expected to exist. The levels were monitored simultaneously at the edge of the roof and at each receptor location. The level at the pool deck location during the tests was about 109 dBA. The Noise Reduction (NR) values are shown in the enclosed spreadsheet.

**Item 7.** The following assumptions were made:

- a. All hotel patrons (92 people which is the maximum allowed capacity) are at the south portion of the pool deck area.
- b. Half the patrons (42 people) are communicating simultaneously at elevated and raised voice levels (shouting and/or yelling) towards the south perimeter of the pool. The acoustic power emission levels for this condition were used in the calculations.
- c. It was assumed that all persons are talking in the southerly direction.
- d. It was assumed that acoustic center is five feet above the deck area and halfway between the pool and the barrier wall on the south side of the pool deck (which is 7'-8" high). These assumptions were intended to simulate the worst case scenario.

**Item 8.** The sound levels were calculated based on the assumption delineated above and are the maximum values which may be expected regardless of time of day. These maximum levels are well below any ambient levels which were measured during the entire survey periods (both short-term and long-term). These differentials will render any noise from the pool deck inaudible. In fact, if the ambient noise levels fall in the 45-50 dBA range; this scenario is extremely unlikely to occur in the areas around the Hotel. The noise levels will still be well below the ambient conditions.

**Item 9.** The exact lists of equipment and proposed uses have not been delineated fully at this time. However any equipment or activity associated with the Hotel services in this area is expected to produce minimal levels of noise for consistency with the expected use of this area of the Hotel. Any sound produced due to various services will be well below the maximum expected noise levels which were used in the analysis of the worst case scenarios. It needs to be noted that the perimeter wall around the pool deck area is very effective for containing the sounds and reducing any impact to the receptor areas.

If you have any questions concerning the information contained in this report, please do not hesitate to contact me.

Sincerely,

**Veneklasen Associates, Inc.**



Hooshang Khosrovani, Ph.D., P.E.  
Associate Principal



**Noise Level Estimate Work Sheet**

**V. A. Project No. 1770-006**

Acoustic Power Level (PWL in dB re  $10^{-12}$  W) for one person at raised level is:

Frequency Hz	63	125	250	500	1K	2K	4K	8K
PWL	74	78	81	85	86	81	72	57

The PWL for 46 persons is (add 10 Log 46, or 17 dB) is:

Frequency Hz	63	125	250	500	1K	2K	4K	8K
PWL	91	95	98	102	103	98	89	74

Sound level is calculated by  $SPL = PWL - 20 \log R + 3$ . At a distance R of 20 feet, SPL (Sound Pressure Level) is:

Frequency Hz	63	125	250	500	1K	2K	4K	8K
SPL	68	72	75	79	80	75	66	51

If a barrier of 7' – 8" is put at 20' away from the source, the IL (Insertion Loss) is:

Frequency Hz	63	125	250	500	1K	2K	4K	8K
IL	7	8	10	12	13	19	22	24

The resulting SPL with this wall will be:

Frequency Hz	63	125	250	500	1K	2K	4K	8K
SPL	61	64	65	67	67	56	44	27

This SPL is the estimated sound level due to patrons at the deck area with the 7' – 8" glass wall in place.

The noise levels at the receptor locations are calculated by subtracting the measured NR's (as shown in the spreadsheet) from the resulting pressure values at the deck area. For example for 157 Cannon address we have:

Frequency Hz	63	125	250	500	1K	2K	4K	8K
SPL at Top (with 7' - 8" wall)	61	64	65	67	67	56	44	27
Measured NR	32	36	45	43	40	46	54	62
SPL at 157 Cannon	29	28	20	24	27	10	-	-



**Veneklasen Associates**

This spectrum yields a dBA value of 28.3.

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