



**Staff Report  
CITY OF BEVERLY HILLS**

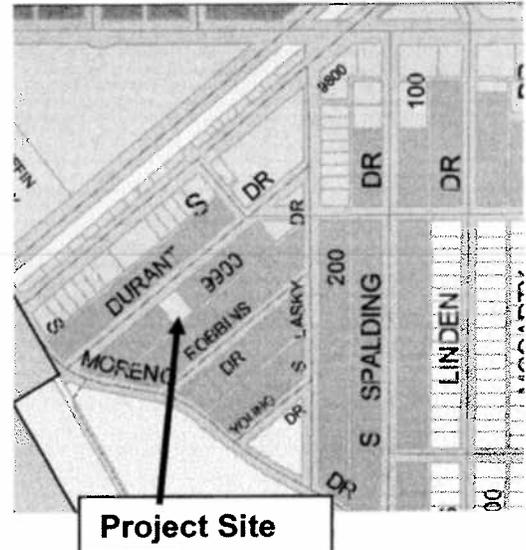
**For the Planning  
Commission Meeting of  
July 8, 2010**

**TO:** Planning Commission

**FROM:** Rita Naziri, Senior Planner

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

**SUBJECT:** Development Plan Review (DPR),  
Tentative Tract Map (TTM No.70035),  
R-4 Permit and Density Bonus Permit  
to allow construction of a 14-unit  
Condominium Project at 9936 Durant  
Drive



**Continued from the meeting of May 27, 2010**

**RECOMMENDATION**

It is recommended that the Planning Commission direct staff to prepare a resolution certifying an Environmental Impact Report (EIR), adopting a statement of overriding considerations and conditionally approving a Development Plan Review, an R-4 Permit, Density Bonus Permit and Tentative Tract Map.

**EXECUTIVE SUMMARY**

At its meeting of May 27, 2010, the Planning Commission reviewed the revised project and requested clarification of the project benefits and further directed the applicant to meet with the already established Planning Commission Subcommittee prior to bringing the matter back to the Planning Commission for a subsequent public hearing.

After meeting with the Subcommittee on June 10, 2010, the applicant has revised the project to include two (2) low-income units versus the two moderate-income units previously proposed. State law permits a greater density bonus for projects that include low-income units compared to those with moderate income units. Consequently, the applicant is now seeking three (3) density bonus units above the code allowed eleven (11) units, resulting in a condominium project with fourteen (14) units. The applicant proposes to deed the two affordable units to the City as a component of the project.

The two affordable units are proposed to offset the loss of the existing historic building that would be demolished to establish the new condominium development.

## **BACKGROUND**

On May 27, 2010, the Planning Commission held a public hearing on the project and the EIR (Attachment 3, Staff Report). As detailed in the report for that meeting, staff indicated that the Statement of Overriding Considerations (SOC) required by the California Environmental Quality Act (CEQA) could possibly be made through the inclusion of two moderate income units within the development. However, the applicant proposed that the two affordable units be given to the City, less the costs of constructing those units. After receiving testimony from the applicant and deliberating, the Commission requested the applicant to return at a later meeting after first clarifying the proposed project benefits and meeting with the Subcommittee. The Subcommittee held a meeting on June 10, 2010 (Attachment 2, Subcommittee notes).

As a result of the Subcommittee meeting the applicant has revised the project to add an additional density bonus unit and has changed the income level of the two affordable units from moderate to low and has further clarified the project benefits.

## **PROPOSED PROJECT BENEFITS**

A letter from the applicant dated June 18, 2010, outlines the project benefit package (Attachment 1) as follows:

1. The project will include two affordable efficiency units which would be deeded free and clear to the City. Due to the estimated construction cost of \$500,000 for the two affordable units, the developer will post a security cash bond in the sum of \$500,000 prior or concurrent with the issuance of building permit. Upon completions of the units, the issuance of a Certificate of Occupancy and a deed being delivered to the City, the security bond shall be released.
2. The project square footage is less than allowed by Code
3. The proposed building contains additional modulation in the front of building. In addition additional front setback is provided.
4. A design that includes a fourth floor setback that provides the appearance of a 3-story building.
5. The building will comply with the City's green building ordinance.
6. The building is redesigned to be compatible with the American Colonial Revival architectural style, reinforcing the continuity of the neighborhood architectural style.

## **DISCUSSION**

The applicant has revised the interior layout to include a total of fourteen units, two of which are proposed to be deeded to the City in consideration of the project's significant unmitigable impact identified in the Environmental Impact Report prepared for the project. While the exterior and footprint of the building remains the same as proposed at the previous hearing, the interior has been reconfigured to allow for an additional unit. The two low-income units that are proposed to be deeded to the City will be efficiency units (studio style, no bedrooms). The remaining 12 units will be market rate.

As detailed in the previous report, the project will be in compliance with all the development standards of the City's Municipal Code, except for the reduced rear yard setback, which is requested as a development incentive for the inclusion of the affordable units.

Deeding two units to the City could be desirable because it would enhance the City's housing goals through the production of affordable housing and provide a revenue source to the City. However as previously indicated, the City does not currently own any residential units and does not have a program to manage any residential units. Therefore, any project that includes acceptance of residential units for ownership by the City would be subject to City Council approval.

## **PUBLIC NOTICE AND COMMENTS**

Notice of the proposed project and public hearing was mailed on June 25, 2010 to all property owners and residential tenants within a 300-foot radius of the property, and all owners of single-family zoned properties within 500 feet from the exterior boundaries of the property, if any. The notice of this hearing was published in the *Beverly Hills Courier* on June 25, 2010 and in the *Beverly Hills Weekly* on July 1, 2010. Public comments were previously received at the first hearing in July of 2009. These comments, along with responses, are included in the Final EIR. As of the date of writing this report, one additional letter is received by the Planning Division in opposition to the proposed project (Attachment 4).

## **ALERNATIVE ACTIONS**

In addition to the recommended action the Planning Commission could also consider the following with respect to the project:

1. Continue this matter for specific reasons;
2. Articulate revised findings and/or conditions to Approve or deny the subject application.

  
RITA NAZIRI

Staff Report  
9936 Durant Drive  
July 8, 2010

Attachments:

1. Project benefit package
2. Planning Commission Sub Committee Notes
3. May 27, 2010 Staff Report
4. Correspondence
5. BHMC Sections 10-3-1521-10-3-1530.5, Residential Density Bonus

**Attachment 1:  
Project Benefit Package**

June 18, 2010

Ms. Rita Naziri, Senior Planner  
Mr. David Reyes, Senior Planner  
City of Beverly Hills Planning Department  
455 N. Rexford Drive  
Beverly Hills, CA 90210

Re: 9936 Durant Drive, Beverly Hills

Dear Ms. Naziri & Mr. Reyes:

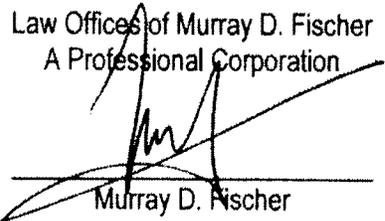
The owners of 9936 Durant Drive hereby offer the following public benefits for purposes of considering overriding circumstances.

1. This project will provide for 2 affordable efficiency units. Said units will be deeded free and clear to the City of Beverly Hills upon the completion of the project. Said units shall have a total cost factor not to exceed \$500,000.00 and to ensure the City of Beverly Hills that the developer or its successors will not transfer by sale or lease said units to any third party, developer will agree to cause a bond or other acceptable security instrument other than a cash bond in the sum of \$500,000.00 to be delivered to the City of Beverly Hills, prior to or concurrently with the issuance of the building permit. Should the owner desire to sell the property to a third party developer, said obligation to provide the affordable units shall run with the land. Upon completion of the units and the issuance of a Certificate of Occupancy and a Deed being delivered to the City of Beverly Hills, said security instrument shall be released and developer's obligation shall be fulfilled.
2. This project is designed with less square footage than allowed by code so as to lessen any feel of massing.
3. The building exceeds the modulation requirements especially in the front of the building, it provides a court yard at the front, which the other building that is being removed had at the back of the building. The front façade of the building is set back beyond the required setback so as to provide a greater distance of setback than is required, which thus reduces the sight line to the roof level, and constantly reduces the appearance of massing.
4. The building is designed so that it gives the appearance of a 3-story building. The 4<sup>th</sup> floor is further setback from the façade at the front setback to the sidewalk across the street, a total distance of approximately 85 feet. You have 10 + 4 + 5 + 5 + 50 + 5 + 5. This building further provides more parking than allowed under the code. This takes into consideration the additional unit that is being allowed pursuant to the affordable housing component as well as the 2 affordable units. The building also provides bicycle parking as it is in close proximity to the high school.
5. The building was applied for before the applicable date of the green ordinance but has been designed to meet the city's green ordinance standards, including ample space on the roof for photo voltaic cells.
6. The building is designed to be compatible with the revival style character of the existing street, reinforcing the continuity of the neighborhood.

June 18, 2010  
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The owners and/or developers believe that the above items are sufficient public benefits to the City of Beverly Hills

Law Offices of Murray D. Fischer  
A Professional Corporation



Murray D. Fischer

MDF/cam

**Attachment 2:  
Planning Commission Sub-Committee  
Notes**



**CITY OF BEVERLY HILLS  
PLANNING COMMISSION SUBCOMMITTEE**

**MEETING NOTES**

**PROJECT:** 9936 Durant Drive

**COMMISSIONERS:** Vice Chair Yukelson and Furie

**MEETING DATE:** June 10, 2010

**ATTENDEES:** Murray Fischer, Judah Farahi, Rita Naziri,  
David Reyes, Jonathan Lait, David Snow,  
David Lightner

At the Planning Commission meeting of May 27, 2010, the applicant was requested to clarify the proposed benefits of the project and to present these benefits to the Subcommittee before the matter brought back to the Planning Commission formal hearing.

Commissioner Furie summarized his understanding of the project and benefits package as follows:

The condominium project includes 9 market rate and 2 moderate income units. As such, the project qualifies for 2 density bonus units. The project further provides 1 efficiency unit (no bedrooms). The two affordable units will be efficiency units. The breakdown of units and benefits is provided below.

Market Rate Units: 12 (any size configuration applicant chooses)  
Affordable Efficiency Units: 2 (low income 600 SF to be deeded to the City)

In addition to the 2 units deeded to the City, the project will comply with the City's Green Building Ordinance.

Commissioner Furie further explained that conditions associated with the benefits would include a bond to be posted prior to issuance of a building permit equal in value to the two units.

Planning Commission Subcommittee  
9936 Durant Drive  
June 11, 2010

Other than the reduced rear yard setback, the project would need to comply with all other development regulations established by the Beverly Hills Municipal Code.

Mr. Fischer stated the proposal is workable; however, his client needs time to consult with his business partners. Mr. Fischer also asked, Mr. Snow, Assistant City Attorney, to study the Case Law # 127Cal.App.4<sup>th</sup> 248 which is related to City's liabilities in these situations. Mr. Farahi also confirmed that he will contact his business partners to discuss the proposal regarding the benefit package.

Commissioners Yukelson and Furie indicated that, in their opinion, the project's redesigned architectural style was more compatible with the neighborhood and the proposed footprint, height and mass did not present any readily identifiable impacts. The two Commissioners further stated that, with the benefits identified above, they would be able to make the statement of overriding considerations required to off-set the loss of the cultural resource.

The applicant was advised that a written description of the proposed benefits as proposed by the applicant, including any revised plans, would need to be submitted to the City prior to a scheduled meeting before the Planning Commission.

**Attachment 3:  
May 27, 2010 Staff Report**



**Staff Report  
CITY OF BEVERLY HILLS**

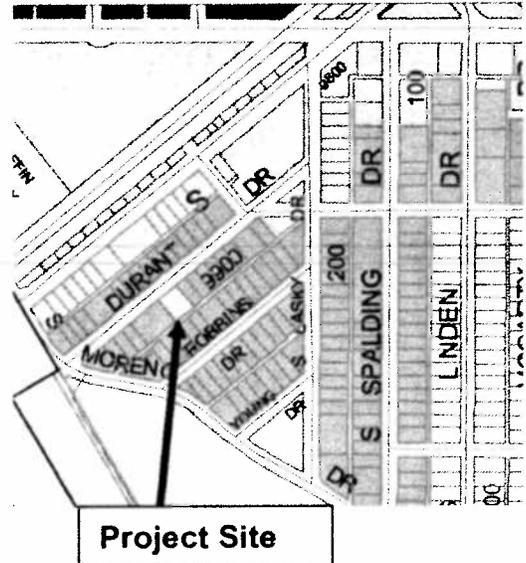
**For the Planning  
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**TO:** Planning Commission

**FROM:** Rita Naziri, Senior Planner

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

**SUBJECT:** Development Plan Review (DPR),  
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R-4 Permit and Density Bonus Permit  
to allow construction of a 13-unit  
Condominium Project at 9936 Durant  
Drive



**RECOMMENDATION**

It is recommended that the Planning Commission direct staff to prepare a resolution certifying an Environmental Impact Report (EIR), adopting a statement of overriding considerations and conditionally approving a Development Plan Review, an R-4 Permit, Density Bonus Permit and Tentative Tract Map and continue the hearing to the Planning Commission meeting of July 8, 2010.

**EXECUTIVE SUMMARY**

Proposed is a four-story, 45 foot tall building containing 13 units, including two moderate income affordable units and 42 parking spaces within a two level subterranean garage. The loss of the existing building results in a significant and unavoidable impact as the current structure is eligible as a historic resource on the California Register. To approve the project, the Planning Commission would need to adopt a statement of overriding considerations (SOC).

On July 23, 2009, the Planning Commission conducted a public hearing to review the Draft EIR and the proposed project. Subsequently a subcommittee was formed and

Staff Report  
9936 Durant Drive  
May 27, 2010

met once, on January 22, 2010. The project has been revised and responses to the DEIR have been prepared.

It is recommended that the Planning Commission direct staff to prepare the appropriate resolutions to approve the project, including certification of the Final EIR, and adoption an SOC.

## **BACKGROUND**

On July 23, 2009, the Planning Commission held a public hearing on the project and the EIR (See Attachment 2 Staff Report and Minutes). At the hearing, the Planning Commission requested the following information be submitted along with the Draft EIR response to comments:

- A cost analysis/feasibility study for alternatives 3 and 4 of the Draft EIR;
- A copy of the Master's Thesis by Michael F. Jimmy entitled "Robert Vincent Derrah and the Nautical Moderne, University of Virginia, 1982 (Attachment 7);
- Additional analysis to determine if project would impact alley circulation; and
- Consideration of a revised project design to be more compatible with the neighborhood.

<b>GENERAL INFORMATION</b>	
<b>Applicant</b>	Judah Farahi
<b>Project Owner</b>	Gale One Properties
<b>Zoning District</b>	Multi-Family Residential (R-4)
<b>Parcel Size</b>	11,991 Square Feet
<b>Permit Streamlining Act Deadline</b>	180 days from the date of certification of the EIR

## **COST ANALYSIS STUDY**

The California Environmental Quality Act (CEQA) requires an Environmental Impact Report to evaluate alternatives to the proposed project. The primary goal of evaluating alternatives is to explore whether there is another way to achieve project objectives that are better for the environment. The Commission requested a cost analysis study be provided to analyze Alternatives 3 and 4 of the Draft EIR. To assist in this analysis, the applicant provided this study and the City hired Keyser Marston Associates, Inc. (KMA) to perform a peer review of this document (Attachment 3). The study is included in the Final EIR.

Both Alternative 3 and 4 contemplated keeping portions of the existing building, construction of new units and construction of a subterranean garage to provide the required parking for the new units. In order to keep the existing building and build subterranean parking, these alternatives proposed to relocate and store the existing structure off-site while the subterranean parking is built. The cost analysis indicates that the proposed project is projected to produce a \$3.4 million or a 17.8% profit. Due to the cost of removing and storing the existing building off-site and the reduction in units, Alternatives 3 and 4 have been projected to eliminate profitability for the development and the KMA report concludes that Alternatives 3 and 4 are not financially feasible.

## **REVISED PROJECT**

### *DESIGN CHANGES*

The Planning Commission has expressed concern regarding the compatibility of the project in relation to the surrounding neighborhood. The Commission indicated that the mass and bulk of the project, along with its modern architectural style should be re-evaluated. The applicant has hired an historian architect to modify the project design in response to concerns expressed by members of the Planning Commission related to compatibility with the neighborhood at the first hearing. Subsequently, Commissioners Furie and Yukelson were appointed to a Subcommittee for this project and met on January 13, 2010. At that meeting, the applicant's architect presented a revised conceptual façade that had been designed to be more compatible with the neighborhood. The revised concept exhibited features common within the American Colonial Revival Style of architecture. Although it was consensus of the subcommittee that the new design was an improvement over the previously proposed design, concern was expressed that the mass and scale of the revised design could still be an issue. (Attachment 5, Subcommittee Meeting Notes).

Subsequent to the subcommittee meeting, the applicant submitted revised plans on May 9, 2010. The revised project includes a design which is more relevant to the existing street character, a reconfiguration of the units layouts, more articulation along the front facade achieved by stepping back the building on the ground floor and fourth floor and creating a 12-foot recessed area at the building entrance. The new design provides the same design elements for all four sides of building.

The required front setback for this project is 10 feet. In response to subcommittee comments, the revised building façade is set back 14-feet from the front property line with architectural features extending four feet from the façade. The prior design included a building façade at the 10' feet setback line. The building is set back an additional 10 feet from the edge of building on fourth floor to reduce the building mass as viewed from the street. Further, the building entrance is within a recessed setting

that is setback at least 10 feet from the front facade. This recessed area /courtyard is covered with a glass element on third level.

The following table compares the original building design with the revised project:

<b>PROJECT COMPONENT</b>	<b>PROJECT REVIEWED ON JULY 2009.</b>	<b>REVISED SUBMITTAL MAY 2010</b>
<i>Architectural Style</i>	Contemporary/International	American Colonial Revival/Georgian
<i># of Units</i>	11 units plus 2 affordable units Total: 13 units	11 units plus 2 affordable units Total: 13 units
<i>Units area &amp; Number of bedrooms</i>	Units size range from 1,415 sq.ft. to 3,161 sq.ft.  Two affordable units 635 sq.ft. and 710 sq.ft. in size	Units size range from 1,304 sq.ft. to 2,643 sq.ft.  Two affordable units 1,014sq.ft. and 1,060 sq.ft. in size
<i>Height</i>	45 feet in height and 4 stories.	45 feet in height and 4 stories and a mansard roof parapet that extends 30 inches in height above maximum height of the building
<i>Front façade modulation</i>	Required 1,035 sq.ft. Provided 1048 sq.ft.	Required 1,055 sq.ft. Provided 1,257 sq.ft.
<i>Step-backs</i>	None	On ground floor the building is set back 4 feet from the front setback line. Fourth floor is step-back 10' from the edge of the front facade wrap around the building sides up to 22'
<i>Outdoor living area</i>	Required: 2,600 sq.ft. Provided: 3,670 sq.ft.	Required: 2,600 sq.ft. Provided: 2,840 sq.ft.
<i>Parking</i>	Required 39 spaces Provided 41 spaces.	Required: 39 spaces Provided: 42 spaces and 1 bicycle
<i>Front Setback</i>	Required:10 feet Provided: 10 feet	Required : 10 feet Provided: 10 feet (building façade is set back 14 feet)
<i>Side Setbacks</i>	North: 10 feet South: 9 feet (19 feet combined)	North: 9.5 feet South: 9.5 feet (19 feet combined)
<i>Rear Setback</i>	Required:15 feet Provided: 15 feet and 2.5' alley Dedication	Required:15 feet Provided: 10'5" (incentive for affordable units) and 2.5' alley dedication
<i>Front yard paving</i>	Two 5-foot walkways and an accessible ramp(exempt) and exit stairs	Two walk walkways, a 6'4" main entry walk and 3'8" garage exit walkway. Exit stairs were removed from the front yard.

### *NEIGHBORHOOD COMPATIBILITY*

Durant Drive is a residential, tree-lined street occupied by two-story Period-style multi-family structures and three, four and five story contemporary apartment structures. An existing 5-unit Colonial Revival apartment building with a Monterey Revival central entry area will be demolished to establish the proposed project. Views to the commercial buildings of Century City and Beverly Hills are visible from Durant Drive due to its northeast/southwest orientation. Despite these commercial views and the fact that the volume of high school related pedestrian and vehicular traffic increases during morning and afternoon hours, the street is distinctly residential. Older Period-style buildings establish much of the residential quality of this street. These structures typically incorporate generous courtyards or enhanced side yards and lush landscaping.

To the west of the site is a recent boxy, five-story stucco structure, "Durant Towers". This building incorporates a vehicle entrance to subterranean parking immediately to the west of the project site. To the immediate east of the project site is a two story eclectic Period-style structure with both Regency and Italianate influences.

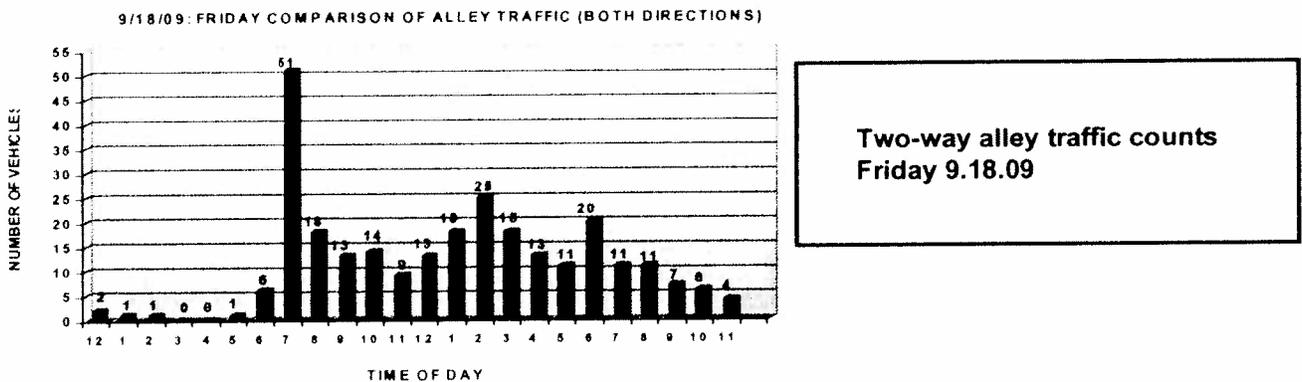
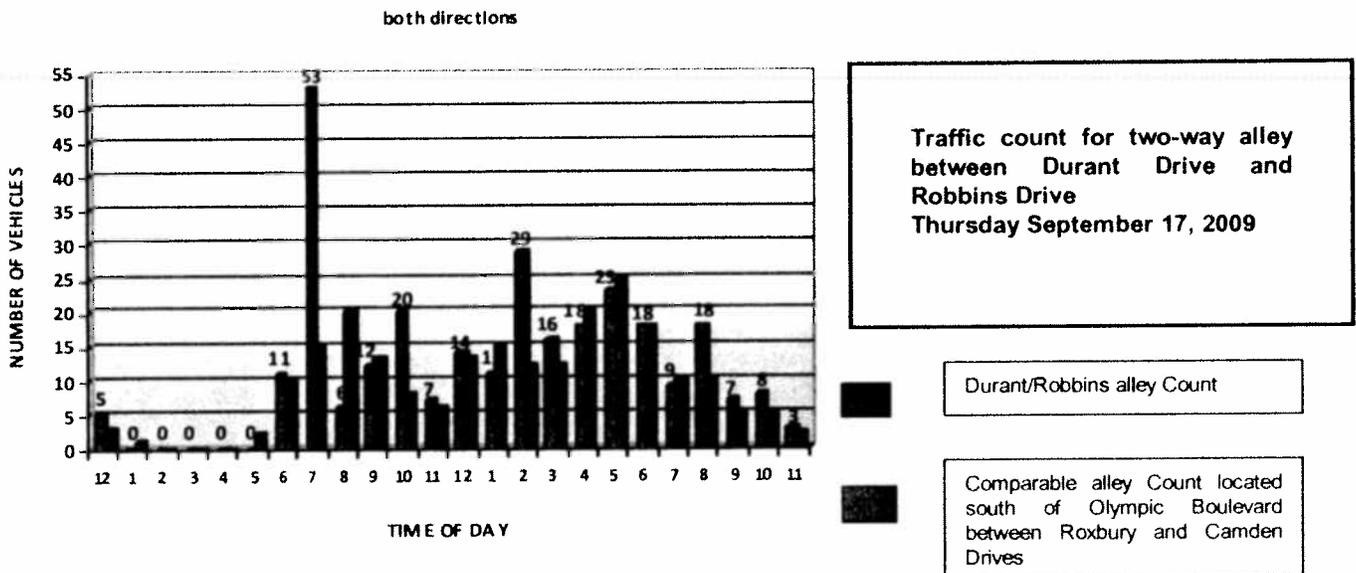
The revised project is more compatible than the previously proposed project to the existing street character and the design elements are carried to all four sides of building. The four-story design, while larger than other the buildings on the street, provides a transition to the five-story building abutting the site to the west. The project design includes a mansard roof with skylights. It is the applicant's intent that this element be considered a clerestory and be allowed to extend beyond the allowed 45-foot height limit. As proposed, this element is not considered a clerestory. As such, should the project be approved, it is recommended that conditions requiring the final clerestory design to be reviewed and approved by the Director of Community Development for code compliance prior to the issuance of a building permit and that the Architectural Commission pay particular attention to this element for design purposes. In addition, while the revised design is more compatible with the existing buildings along this portion of Durant Drive, it is further recommended that any approval require the Architectural Commission to focus on the front façade which, as shown on the plans submitted, appear overly busy.

### **ALLEY TRAFFIC**

The Planning Commission requested that additional analysis be prepared to evaluate potential project impacts to the existing alley circulation. Staff conducted 24 hour traffic counts in the residential east-west alley between Durant and Robbins Drives on September 17 and 18, 2009. The automatic counts were taken at two ends of the alley to obtain the average hourly counts as shown in the graphs below.

The traffic counts studied shows that the alley traffic is similar to any residential alley in the area with an exception that between the hours of 7 to 8 am, the volume increases by as much as 25 vehicles. These are mostly high school students driving to school (most of this increase occurs specifically between the hours of 7:45 and 8 am when the high school opens). A small increase of traffic is also observed between the hours of 2 to 3 pm. This could be indicative of small number of high school students using this alley to leave school. During other hours the trend of traffic in the alley appears to be used by residents that have garage access to this alley.

The City does not have any adopted threshold criteria for determining impacts to alleys. Moreover, traffic was studied as part of the EIR and no impacts were identified. It is not anticipated that the project would significantly affect alley use or circulation patterns.



## **DENSITY BONUS**

Under the City's existing development density standards, the subject property may be developed with 11 units. The applicant is proposing that two of the units be provided for moderate income households. Consistent with State Law and the City's Density Bonus ordinance, the project qualifies for a thirteen percent (13%) density bonus and one development incentive.

Other California Cities have adopted local density bonus ordinances that provide a list of specific construction incentives that a developer can request for providing a density bonus. The City of Beverly Hills does not have a menu of incentives incorporated into its Density Bonus Ordinance. Therefore, applicants can propose preferred construction incentives. The applicant is proposing a reduced rear yard (from 15' to 10'5") as the development incentive. The proposed rear setback reduction allows for additional step-backs on the ground and fourth floors without losing any of the project's square footage. The design goal of this front step-back is to minimize the mass of the project from Durant Drive. Alley access to the garage is not affected by the reduced setback.

Previously the applicant had requested a development incentive that would reduce the minimum unit size for the affordable units. The revised project now has code compliant unit sizes, for these one-bedroom units (1,000 square feet).

## **FINAL EIR**

### ***Final EIR/Response to Comments***

A total of seven letters and sixteen petition signatures were received on the project and DEIR during comment period and one additional letter was received after the close of the comment period. These letters are listed in the Comments and Responses document. In addition, the Final EIR includes responses to the Planning Commission's concerns regarding the alley and feasibility study. The EIR concludes that implementation of the project will result in significant environmental impacts in the areas of neighborhood compatibility and loss of an individual historic resource.

### ***Statement of Overriding Considerations (SOC)***

Pursuant to CEQA regulations, when a public agency decides to approve a project that will cause one or more significant environmental effects, the agency shall prepare a statement of overriding considerations (SOC) which reflects the ultimate balancing of competing public objectives. Specifically, the public agency must find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

The applicant has identified proposed project benefits in an email included with this report as Attachment 6. To offset the environmental impacts of the project, the applicant is proposing to deed the two affordable units to the City and to build a project that complies with the City's Green Building Ordinance.

In balancing the loss of the cultural resource with the project benefits, there are several issues that need to be addressed. Deeding two units to the City is, in theory, a potentially desirable benefit because it would further the City's Housing Goals through the production of affordable housing and provide a revenue source to the City that could go into the City's General Fund, or a yet to be developed affordable housing trust fund. However, at present, the City does not own any residential units and does not have a program in place to manage any units. There are ongoing maintenance, liability and managing costs associated with being a residential landlord and the terms of an agreement between the developer and the City have not been established. Moreover, only the City Council has the ability to accept these units from the applicant and, given the lack of an affordable housing program, it is unclear whether these units would be accepted.

While the applicant's proposal to deed the units may not be appropriate at this time, two affordable units deed restricted to low income families for a 30 year period, regardless of ownership, is a benefit to the City because it would still advance the City's Goal of providing affordable housing in the City. Further, although this project does not have to comply with the City's Green Building Ordinance as it was deemed complete prior to its effective date, voluntary compliance would result in the City's first "green" multi-family residential building.

## **FINDINGS**

The proposed project is subject to discretionary review before the Planning Commission and subject to appeal to the City Council. The findings contained in this section of the report are staff recommended findings. The Planning Commission or City Council on appeal may arrive at an alternative conclusion on the project and different findings based on the administrative record, applicant and public testimony.

### **Development Plan Review Findings**

The Planning Commission may authorize a multi-family residential project involving five or more units if the following DPR findings are made:

#### **A. The proposal is consistent with the General Plan and any specific plans adopted for the area.**

If the Density Bonus Permit is granted, the development as proposed meets Zoning Code requirements, particularly regarding use, density, parking and height except for the architectural projections on the roof. The proposed project would be

consistent with the adopted General Plan of the City which designates this as a high density multiple-family residential area. The project consistent with the General Plan LU 5.10 goal which sufficiently supports the development of affordable housing as mandated by state law and the current Housing Element Objective 2.2, which states the City should "expand supply of housing affordable to lower income households" and Program 2.5 which states the City should promote utilization of the density bonus ordinance.

**B. The proposed project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.**

As proposed, the project will not adversely effect existing and anticipated development in the vicinity. While the existing development in the block is predominantly two-stories, the current zoning standards allow for four stories. The 13-unit, 45-story project incorporates a fourth floor step-back to reduce the mass of the proposed structure as viewed from Durant Drive. The project contains architectural features associated with the American Colonial Style of Architecture, which is a prominent style in the district. As proposed and conditioned, the project will comply with applicable development regulations, will be subject to Architectural Review and is anticipated to be harmonious with the neighborhood.

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

A traffic impact analysis was conducted by Willdan who prepared an EIR for the proposed project to assess the potential impacts of the proposed condominium project. The traffic analysis was conducted based on the traffic, parking and circulation study that was prepared by Coco Traffic Planners, Inc. As proposed, the proposed project will result in a net increase of 50 new daily trips, including five new AM peak hour trips and four net new PM peak hour trips. There is only a small net increase in traffic because the project increases the net number of units on the site by eight units. During the project hearing on July 23, 2009, the Planning Commission requested that additional traffic counts for the alley behind the property be provided. Staff conducted additional 24 hour traffic counts in the residential east-west alley behind the property on two consecutive days (September 18 and 19, 2009) and compared the alley operation with a residential alley in the vicinity and found that the alley traffic trend is similar to any residential alley with an exception that between the hours of 7:00 to 8:00 a.m., the traffic volumes increases by as much as 25 vehicles which appears to be related to high school students who use the alley to get to school. Therefore, staff concludes that the traffic generated by the proposed multi-family project does not impact the alley. Therefore, it is not anticipated that the project would generate adverse traffic

impacts, traffic hazards, pedestrian/vehicle conflicts, or pedestrian safety hazards if the project were to be approved by the Commission. Access to nearby schools has been studied and the proposed project should not conflict with schoolchildren and other pedestrians who may travel in front of the project site. Regulatory measures are proposed during construction period to offset any temporary impacts which would occur over an approximately 18-month construction period.

**D. The project will not be detrimental to the public health, safety or general welfare.**

The project would be constructed in accordance with the City's Building Code standards and is consistent with the zoning for the area. Prior to the issuance of building permits, a construction management plan is required for review and approval by the Engineering Division and Building and Safety Division. Public safety issues such construction staging, hauling, off-site parking, and construction hours are addressed. Therefore, the project will not be detrimental to the public health, safety or general welfare.

**Tentative Tract Map Findings**

The Planning Commission may authorize a tentative tract map if the findings can be made (Government Code Section 66474):

**(a) That the proposed tentative tract map and the design or improvements or improvements of the proposed subdivision are consistent with the General Plan of the City.**

As proposed, the Project's design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "Multi-family Residential – high density". This designation identifies a maximum density for this project of 14 DU and a maximum height of 60 feet. The project site is located in the R-4 Multiple Residential Zone which allows a maximum density for this site of 13-unit with the granting of a density bonus and a maximum height of 45'. The Project involves the construction of a 13-unit four-story 45' in height residential condominium building, which is in keeping with the Land Use designation and requirements of the zone.

**(b) That the site is physically suitable for the type of development and the proposed density.**

The site is zoned for high density multi-family residential development and suitable for development such as the proposed project. The proposed density of 13 units meets current code requirements with the granting of a density bonus and is appropriate to the site. All necessary utilities are in place to adequately serve the proposed project.

- (c) That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

The attached EIR indicates that the Project will not cause substantial environmental damage or substantial and avoidable injury to fish or wildlife or their habitat. The EIR found no significant impacts to fish, wildlife, or habitat. The EIR identified aesthetics significant unmitigable adverse impact and significant unavoidable adverse impact on cultural resource impacts. However a statement of overriding considerations will be adopted in connection with the project.

- (d) That the design of the subdivision or type of improvements are not likely to cause serious public health problems and that the design of the subdivision or the type of improvements will not conflict with any public easement.**

The project design has been preliminarily reviewed by the Public Works Department and the Building and Safety Division for code compliance. The project will not encroach into any public easement areas. Therefore, the design of the subdivision and types of improvements are not likely to cause serious public health problems or conflict with any public easement. Access to nearby schools has been studied and the proposed project should not conflict with schoolchildren and other pedestrians who may travel in front of the project site.

- (e) That the discharge of waste water from the proposed subdivision into the existing sewer systems will not result in a violation of existing requirements presented by the California Water Quality Act Control Board.**

The project has been preliminarily reviewed by the Public Works Department. Discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the California Regional Water Board provided the NPDES water requirements are complied with. Appropriate conditions of approval are recommended to require compliance with the NPDES permit requirements. Therefore, the discharge of waste water from the proposed subdivision into the existing sewer systems will not result in a violation of existing requirements presented by the California Water Quality Act Control Board.

As conditioned, the project meets the five criteria as listed above.

### **Density Bonus Permit Findings**

Both State of California Government Code Section 65915 and BHMC Article 15.2 provide that the City shall offer a 20% density bonus and one development incentive if the project contains 10% of total units of a housing development for lower income households. As conditioned, the project is in compliance with the affordable housing requirements of State and local law. The Planning Commission may determine the exact construction incentive to be offered to a project. The incentive of rear setback reduction appears to be suitable for the multi-family residential zone in which the project is located. As proposed, the proposed project has included 4th story stepped back from the edges of the building to reduce the mass impacts from the proposed building height compared to the existing buildings on Durant Drive.

### **R-4 PERMIT FINDINGS**

The Planning Commission may grant the equivalent of one five-foot (5') wide walkway in the front yard per fifty feet (50') of frontage along the front line of the subject site, in any configuration if the Planning Commission finds:

**That the proposal is compatible with the nearby streetscape; and, that the proposal is compatible with the scale of surrounding development.**

- (a) The subject lot is 100 feet wide; therefore, a maximum 10-foot wide walkway is permitted if authorized by an R-4 Permit. A 6'4" walkway is proposed in the middle of the site to gain access to the building. The second 3'8" walkway will provide access to the required exit from the subterranean garage. Although, no landscape plan is provided at this time, but the site plans notes that the front setback will be landscaped with a variety of planting materials and greenery in the front yard of the project offsetting the paved areas. As noted before, the project including the exterior improvements will be reviewed by the Architectural Commission to make sure that the landscape plan will enhance the streetscape. Therefore, the proposed walkways would be compatible with the scale of the structure and consistent with other structures in the multi-family residential zones.

### **PUBLIC NOTICE AND COMMENTS**

Notice of the proposed project and public hearing was mailed on May 14, 2010 to all property owners and residential tenants within a 300-foot radius of the property, and all owners of single-family zoned properties within 500 feet from the exterior boundaries of the property, if any. The notice of this hearing was published in the

Staff Report  
9936 Durant Drive  
May 27, 2010

*Beverly Hills Courier* on May 14, 2010 and in the *Beverly Hills Weekly* on May 20, 2010. Public comments were previously received at the first hearing in July of 2009. These comments, along with responses, are included in the Final EIR. As of the date of writing this report, no additional comments have been received.

## **ALERNATIVE ACTIONS**

In addition to the recommended action the Planning Commission could also consider the following with respect to the project:

1. Continue this matter for specific reasons;
2. Articulate revised findings and/or conditions to Approve or Deny the subject application.



RITA NAZIRI

### Attachments:

1. Final EIR including the Comments and Responses and Draft Environmental Impact Report (DEIR)
2. July 23, 2009 Staff Report and Planning Commission Minutes
3. Applicant's Financial Feasibility Statements & KMA Peer Review
4. BHMC Sections 10-3-1521-10-3-1530.5, Residential Density Bonus
5. Planning Commission Sub Committee Notes
6. Applicant's e-mail regarding Project benefits
7. A copy of the Master's Thesis by Michael F. Zimmy entitled "Robert Vincent Derrah and the Nautical Moderne, University of Virginia, 1982

**Attachment 4:  
Correspondence**

TERRANCE B. RODSKY  
ATTORNEY AT LAW

POST OFFICE BOX 6947  
BEVERLY HILLS, CALIFORNIA 90212  
TEL. 310-553-1915 - FAX 310-553-6346  
terrancerodsky@sbcglobal.net

Received  
City of Beverly Hills

JUN 3 2010

PLANNING DIVISION  
COMMUNITY DEVELOPMENT

June 2, 2010

City of Beverly Hills  
Department of Community Development/Planning Services  
455 North Rexford Drive, Suite 100  
Beverly Hills, California 90210  
ATTN: Rita Naziri, Senior Planner

Re: Proposed 13-Unit Condominium Project; 9936 Durant Drive ("Project")

Dear Ms. Naziri:

I own the duplex directly across the street (9933 – 9935 Durant Drive) from the Project. I attended the Planning Commission meeting of May 27, 2010 and reviewed the relevant material posted on the website regarding the Project.

I previously wrote in opposition to this Project on July 8, 2009. I renew my opposition based on aesthetic as well as practical considerations.

The graphics displayed on the screen, as well as the model provided for inspection on May 27, lacked sufficient detail and clarity to allow the Commission to properly evaluate this Project.

The building to be demolished was designed by Robert Derrah. It has historical significance and is worthy of conservation as a "character contributing building". The Colonial Revival style adds value to the neighborhood. encourages tenants and owners to look upon their apartments and condominiums as homes, not housing units.

While the current architectural design is a vast improvement over the previous design, the Project remains at odds with the remaining two story buildings on Durant Drive, many of which possess cross-gabled roofs and court yards, porticos and bay windows, pediment crowns and multi-pane sash windows. More of these features should be incorporated into the final design?

At the May 27 meeting, a discussion was held of what constitutes the "neighborhood". Is it Durant Drive only? Or is it the entire subdivision? I urge the Commission, for purposes of evaluating this Project, to define Durant Drive itself as the neighborhood. It is logical to do so. The aesthetics of Durant Drive differ from the broader area. An observer standing in the middle of Durant Drive, either looking west or east, is limited to vistas that incorporate only the unique charms of Durant Drive. Why dilute or degrade the "existing character or quality of the site and its surroundings."

A further discussion ensued on May 27 concerning the two units being deeded to the City of Beverly Hills. I too was confused about this subject. Does recoupment of costs of construction of these two units by the developer rely upon a calculation of "costs" based solely upon the average cost of construction per square foot of the building as a whole, or upon the actual "costs" of the construction of these two particular units? Are "costs" inclusive of all monies incurred to date (e.g. the prior architectural design expenses, legal fees in obtaining approval of the Project) as well as non-construction expenses to be incurred in the future (e.g. legal fees to evict current tenants, compensation to current tenants to have them move)?

Traffic remains a concern. As I wrote previously, the Circulation Study conducted by Coco Traffic Planners, Inc. is unpersuasive and counterintuitive. Replacement of 5 apartments centered around an open courtyard all accessible on the ground level with 13 condominiums does not lead to the conclusion that "motorists will not be able to detect any change in traffic operations due to the traffic generated by the proposed project.

Finally, I found a remark made in support of the Project that the City of Beverly Hills should somehow be held responsible for future higher permit fees because the Commission insists upon discharging its duties to the citizens of Beverly Hills, to be off-putting.

I urge the Commission to carefully consider the Proposal in the context of what is being destroyed and what will replace it.

Very truly yours,

  
TERRANCE B. RODSKY

TBR:az

**Attachment 5:  
BHMC Sections 10-3-1521 through 10-3-  
1530.5, Residential Density Bonus**

## **Article 15.2. Residential Density Bonus**

### **10-3-1520: PURPOSE:**

This article specifies the method of providing developer incentives pursuant to California Government Code sections 65915 and 65915.5, or any successor statutes thereto, and provides procedures for waiving or modifying development procedures which would otherwise inhibit the utilization of density bonus incentives on specific sites. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1521: DEFINITIONS:**

Unless the context otherwise requires, the following definitions shall govern the construction of this article:

**CHILDCARE FACILITY:** Shall have the same meaning ascribed to that term by California Government Code section 65915, or its successor statute.

**DENSITY BONUS:** Shall have the same meaning ascribed to that term by California Government Code section 65915, or its successor statute.

**ELIGIBLE HOUSEHOLDS:** Includes lower income households, persons and families of low or moderate income, qualifying senior residents, and very low income households.

**ELIGIBLE UNITS:** Dwelling units that are restricted to occupancy by eligible households.

**LOWER INCOME HOUSEHOLDS:** Shall have the same meaning ascribed to that term by California Health and Safety Code section 50079.5, or its successor statute.

**PERSONS AND FAMILIES OF LOW OR MODERATE INCOME:** Shall have the same meaning ascribed to those terms by California Health and Safety Code section 50093, or its successor statute.

**QUALIFYING SENIOR RESIDENT:** Shall have the same meaning ascribed to the term "qualifying resident" by section 51.3 of the California Civil Code, or its successor statute.

**SENIOR CITIZEN HOUSING DEVELOPMENT:** Shall have the same meaning ascribed to that term by section 51.3 of the California Civil Code, or its successor statute.

**VERY LOW INCOME HOUSEHOLDS:** Shall have the same meaning ascribed to that term by California Health and Safety Code section 50105, or its successor. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1522: DENSITY BONUS PERMIT REQUIRED:**

No developer shall be granted a density bonus or other incentive pursuant to this article unless that developer has been issued a density bonus permit pursuant to the procedures set forth in this article. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1523: APPLICABILITY OF OTHER REGULATIONS:**

Except as otherwise specifically authorized by a density bonus permit, no development shall be constructed pursuant to this article except in compliance with each provision of this chapter that is applicable to the zone in which the development is located, including any requirement for discretionary review of a development project, such as development plan review. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1524: APPLICATIONS:**

In addition to any other discretionary review required for a proposed housing project, applications for a density bonus permit shall be filed with the director of community development on a form approved by the director. The application shall be filed concurrently with an application for a development plan review. The fee for processing a density bonus permit application shall be one-half ( $\frac{1}{2}$ ) the fee for processing a development plan review application. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1525: REVIEW OF APPLICATION:**

The planning commission shall process the application for a density bonus permit in the same manner as, and concurrently with, the application for a development plan review that is required by article 31 of this chapter for development of a density bonus project. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1526: GRANT OF DENSITY BONUS:**

A. Section 65915 Projects: Except as otherwise provided in this article, the planning commission shall grant a density bonus permit to any project for which a density bonus and incentives or concessions are required pursuant to California Government Code section 65915. The density bonus permit shall provide for a density bonus and at least one of the construction incentives described in section 10-3-1526.5 of this article in accordance with the following criteria:

**1. Base Density Bonus:**

a. The planning commission shall grant a density bonus permit that authorizes development of a project with a twenty percent (20%) density bonus and at least one of the construction incentives set forth in section 10-3-1526.5 of this article when the applicant for a housing development agrees to construct at least any one of the following:

(1) Five percent (5%) of the total units of a housing development for very low income households; or

(2) Ten percent (10%) of the total units of a housing development for lower income households; or

(3) A senior citizen housing development.

b. The planning commission shall grant a density bonus permit that authorizes development of a project with a five percent (5%) density bonus and at least one of the construction incentives set forth in section 10-3-1526.5 of this article when the applicant for the housing development agrees to construct ten percent (10%) of the total dwelling units in a condominium project, as defined in subdivision (f) of section 1351 of the California Civil Code or its successor statute, or in a planned development, as defined in subdivision (k) of section 1351 of the California Civil Code or its successor statute, for persons and families of moderate income.

**2. Additional Density Bonus:** In addition to the base density bonus granted by the planning commission pursuant to subsection A1 of this section, a density bonus permit issued pursuant to this article shall authorize an additional density bonus under the following circumstances:

a. For each one percent (1%) increase in the number of units above the initial five percent (5%) threshold of units affordable to very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty five percent (35%); or

b. For each one percent (1%) increase in the number of units above the initial ten percent (10%) threshold of units affordable to lower income households, the density bonus shall be increased by one and one-half percent (1.5%) up to a maximum of thirty five percent (35%); or

c. For each one percent (1%) increase in the number of units in a condominium development above the initial ten percent (10%) threshold of units affordable to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty five percent (35%).

**B. Section 65915.5 Projects:** If the city is required to issue a density bonus under California Government Code section 65915.5, the density bonus permit shall authorize development of a project with either a twenty five percent (25%) density bonus or with other incentives that are of equivalent financial value to the twenty five percent (25%) density bonus. Such

other incentives shall be limited to financial incentives or any combination of density bonus, financial incentives, and construction incentives set forth in this section and section 10-3-1526.5 of this article.

With regard to construction incentives granted pursuant to this section, any requirement to designate units for lower income or very low income households may be satisfied by designating such units for persons and families of low and moderate income. Similarly, for the purpose of construction incentives granted pursuant to this section, any reference in section 10-3-1526.5 of this article to units designated for lower and very low income households shall include units designated for persons and families of low and moderate income.

C. Fractional Units: For the purposes of this section, all density calculations resulting in fractional units shall be rounded up to the next whole number. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1526.5: GRANT OF CONSTRUCTION INCENTIVES:**

A. Number Of Incentives: In addition to the density bonus granted pursuant to section 10-3-1526 of this article, an applicant for any project for which a density bonus and incentives or concessions are required pursuant to California Government Code section 65915 shall be entitled to receive the following number of construction incentives:

1. One incentive for a project that includes at least ten percent (10%) of the total units for lower income households, at least five percent (5%) for very low income households, or at least ten percent (10%) for persons and families of moderate income in a condominium or planned development.
2. Two (2) incentives for a project that includes at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) for very low income households, or at least twenty percent (20%) for persons and families of moderate income in a condominium or planned development.
3. Three (3) incentives for a project that includes at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) for very low income households, or at least thirty percent (30%) for persons and families of moderate income in a condominium or planned development.

B. Qualifying Incentives: The exact construction incentive(s) to be offered to a project that qualifies for a density bonus pursuant to Government Code section 65915 and section 10-3-1526 of this article shall be determined by the planning commission as part of its review of each application.

- C. Exceptions: Notwithstanding the requirements of this section, with regard to developments that qualify for a construction incentive pursuant to California Government Code section 65915, the planning commission need not provide a construction incentive in addition to the applicable density bonus if the commission makes a written finding, based upon substantial evidence, that either:
1. The requested incentive is not required to encourage the provision of housing at affordable housing costs as defined in California Health and Safety Code section 50052.5 nor is the incentive necessary to encourage the provision of housing at rents that are set as specified in California Government Code section 65915; or
  2. The requested incentive would have a specific adverse impact, as defined in California Government Code section 65589.5 or its successor statute, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1527: LAND DONATIONS; CHILDCARE FACILITIES:**

- A. Land Donations: If an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the city as provided in California Government Code section 65915, or its successor statute, the planning commission shall grant a density bonus permit that authorizes a density bonus as required by section 65915, or its successor statute.
- B. Childcare Facilities: If the applicant for a project that qualifies for a density bonus pursuant to section 10-3-1526 of this article proposed to include a childcare facility on the premises of, as part of, or adjacent to, the project, the planning commission shall grant the applicant one of the following:
1. An additional density bonus in an amount equal to or greater to the square footage in the childcare facility; or
  2. An additional construction incentive set forth in section 10-3-1526.5 of this article that contributes significantly to the economic feasibility of the construction of the childcare facility.

Notwithstanding the foregoing, the planning commission shall not grant an additional density bonus or construction incentive for a childcare facility if, the commission finds, based on substantial evidence, that the community is already served by adequate childcare facilities. (Ord. 05-O-2482, eff. 9-16-2005)

**10-3-1528: OCCUPANCY PRIORITY:**

A. Displaced Tenants: If tenants are required to vacate existing dwelling units so that an owner or developer may perform any construction, renovation or addition pursuant to a density bonus permit, then each tenant shall be given a right of first refusal to occupy any unit for which the tenant qualifies in the newly constructed or renovated building. Tenants shall be offered the units in the following priority:

1. Households in which at least one member is sixty two (62) years of age or older;
2. Households with the lowest annual income.

B. Lower And Very Low Income Households: After accommodating displaced tenants as provided in subsection A of this section, during the affordability period described in section 10-3-1529 of this article for rental units designated for lower and very low income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated affordable units in the following priority:

1. Qualified households in which at least one member is:
  - a. Employed by the Beverly Hills Unified School District as a state certified classroom teacher; or
  - b. Employed by the Beverly Hills police department as a sworn law enforcement officer; or
  - c. Employed by the Beverly Hills fire department as a sworn firefighter;
2. Households with the lowest annual income;
3. All other qualified households.

C. Moderate Income Households:

During the initial sale of units designated for sale to moderate income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated units in the following priority:

1. Qualified households in which at least one member is:
  - a. Employed by the Beverly Hills Unified School District as a state certified classroom teacher; or
  - b. Employed by the Beverly Hills police department as a sworn law enforcement officer; or

- c. Employed by the Beverly Hills fire department as a sworn firefighter;
2. Households with the lowest annual income;
3. All other qualified households. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1529: ELIGIBILITY GUARANTEES:**

Prior to the construction of a development project pursuant to a density bonus permit, the developer shall ensure continued affordability of units designated for lower and very low income households to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute.

Also prior to the construction of a development project pursuant to a density bonus permit, with regard to dwelling units designated for qualifying senior residents, the developer shall ensure continued restriction of those units to qualifying senior residents and qualified permanent residents to the satisfaction of the city attorney and as provided in California Civil Code section 51.3 or its successor statute.

Additionally, prior to the issuance of a density bonus permit for a development in which the units will be sold to moderate income households, the developer shall ensure that the initial occupants of such units meet the applicable income limits to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute. In addition, the developer shall ensure that, upon resale, the city recaptures its proportionate share of the appreciation of such units to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute. (Ord. 05-O-2482, eff. 9-16-2005)

### **10-3-1529.5: WAIVERS:**

In addition to any construction incentive requested by an applicant pursuant to section 10-3-1526.5 of this article, if an applicant for a density bonus permit demonstrates that certain zoning or development standards are the sole reason that eligible units cannot be developed in an economically feasible manner on a specific site, and the applicant demonstrates that no other incentive provided in this article will cause development of the eligible units to become economically feasible, then the planning commission may grant a waiver of the subject zoning or development standards as part of the density bonus permit. The applicant shall bear the burden of proving, through substantial evidence, that the waiver or modification is necessary to make the affordable housing units economically feasible. At a minimum, any request for a waiver of zoning or development standards pursuant to this section shall be accompanied by a pro forma or other financial analysis prepared by a qualified expert demonstrating that the proposed waiver or modification is necessary to make the affordable units economically feasible. (Ord. 05-O-2482, eff. 9-16-2005)

**10-3-1530: APPEALS:**

Any decision of the planning commission made pursuant to this article may be appealed by the applicant or any other interested party as provided in title 1, chapter 4, article 1 of this code. (Ord. 05-O-2482, eff. 9-16-2005)

**10-3-1530.5: GUIDELINES:**

All applications for a density bonus permit shall be processed pursuant to the guidelines for density bonus permit applications approved by the city council and on file in the department of community development. (Ord. 05-O-2482, eff. 9-16-2005)