



STAFF REPORT
CITY OF BEVERLY HILLS

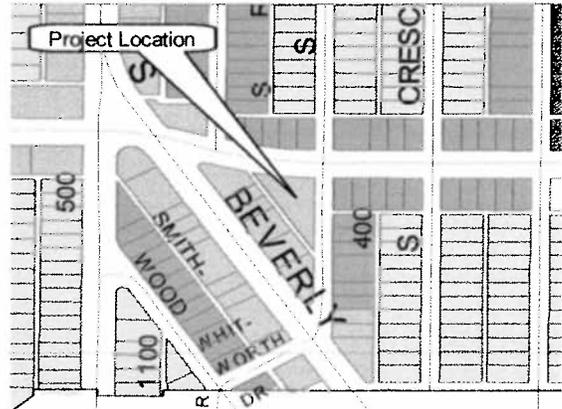
**For the Planning Commission
Meeting of July 8, 2010**

TO: Planning Commission

FROM: Georgana Millican,
Associate Planner

THROUGH: Jonathan Lait, AICP,
City Planner

SUBJECT: A request to modify a Conditional Use Permit that restricts hotel operations, and a request for an Extended Hours Permit to extend the permissible hours of operation on Sunday night for the restaurant at the Avalon Hotel located at **9400 Olympic Boulevard**.



RECOMMENDATION

It is recommended that the Planning Commission adopt the attached resolution conditionally approving an amendment to an existing Conditional Use Permit, Development Plan Review and an Extended Hours Permit.

EXECUTIVE SUMMARY

The Avalon Hotel is a legally non-conforming hotel located within the City's multi-family (R-4) zone. The hotel has an existing restaurant with indoor and outdoor seating as well as an outdoor seating/lounge area that is adjacent to an existing swimming pool. The hotel's operations are currently regulated by existing entitlements and restaurants in hotels that are located within multi-family zones are further regulated by the zoning code to ensure such hotels do not result in negative impacts to surrounding residential uses. An application has been filed to amend existing conditions of approval as follows:

1. Extended Hours/Alcohol Service – The Applicant is requesting to admit patrons up until 11 p.m. on Sunday nights and to serve alcohol until 1:00 a.m. nightly. Currently alcohol service is required to end at 12:00 a.m. nightly and the restaurant must close by 11 p.m. on Sunday.

2. Allow Competitive Valet Parking Charges for All Hotel Guests and Restaurant Patrons – The Applicant is requesting that the condition to provide free valet parking be modified to allow the hotel to charge a competitive valet parking charge of \$9.00 for all hotel guests and restaurant patrons.
3. Modification of Parking Supply – The Applicant is requesting to amend the condition requiring a lease for up to 200 spaces (available on an as needed basis in the evening) at an off-site location (1125 South Beverly Drive).

GENERAL INFORMATION	
Applicant	Mitch Dawson
Project Owner	The KOR Group, on behalf of Honeymoon Real Estate, L.P.
Zoning District	The main hotel building (9400 Olympic) including the Canon Drive building are located in R-4 Zone, The Beverly Drive building is located in C-3 zone.

PROJECT SITE

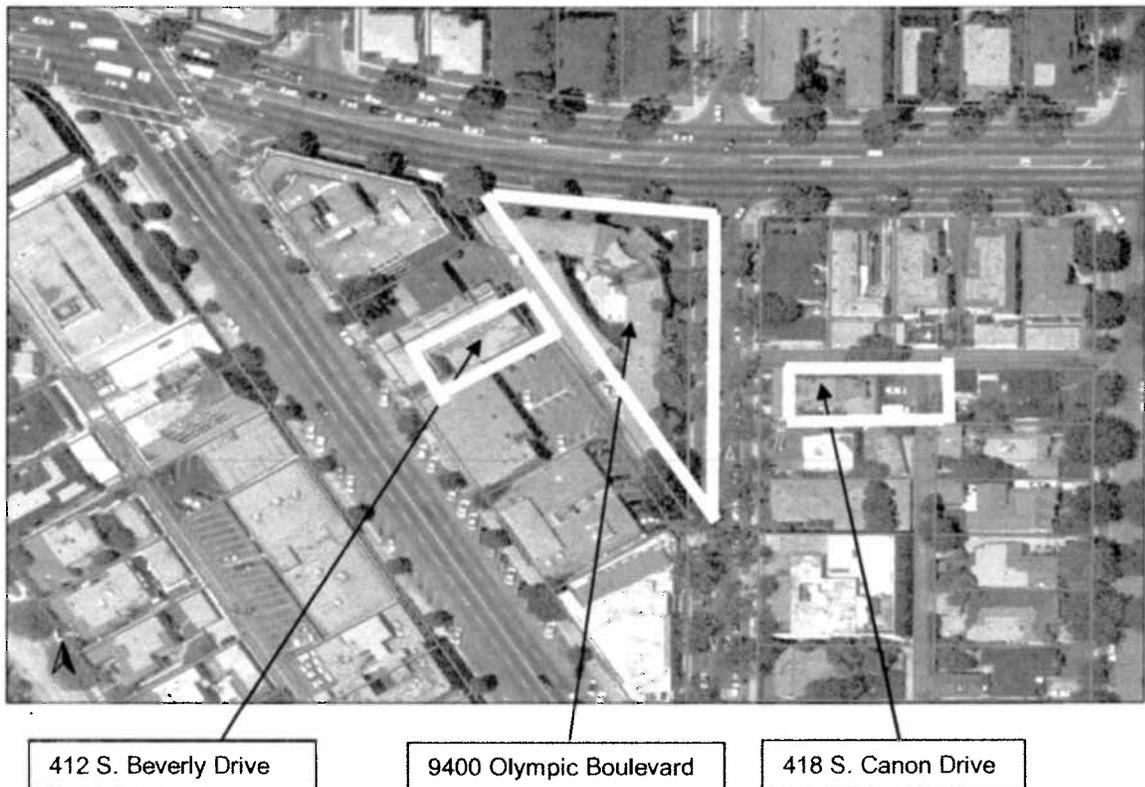
The hotel is comprised of three different buildings all of which contain guest rooms. The main building which has the restaurant and pool is the building located at 9400 Olympic Boulevard with the building at 412 South Beverly Drive located across the alley behind the main building and the 418 South Canon Drive building is located across the street from the main building.

The area surrounding the Avalon Hotel has apartment buildings on the easterly side of Canon Drive and on Olympic Boulevard and Commercially zoned (C-3) properties on South Beverly Drive separated by an alley.

Avalon Hotel Site Locations and Improvements

	9400 Olympic Blvd.	418 S. Canon Drive	412 S. Beverly Drive
Site Area	25,000 sq.ft.	6,645 Sq.ft.	5,496 Sq.ft.
Height/# of stories	40 feet/3 stories	30 feet/2 stories	50 feet/5 stories
Floor Area	26,900 sq.ft	6,600 sq.ft.	13,040 sq.ft.
Number of Rooms	44 rooms	16 rooms	28 rooms
Dining Area (gross floor area)	1,016 square feet	N/A	N/A
Patio (gross floor area)	3,263 square feet	N/A	N/A
Parking (additional parking is located at off-site locations)	19 spaces	5 spaces	26 spaces

Avalon Hotel Buildings



In addition to the on-site parking spaces, the hotel is conditioned to provide off-site parking as further described later in this report.

BACKGROUND

The Avalon Hotel has an existing Conditional Use Permit and Development Plan Review that allow the hotel's dining facility to be open to the public and allow open air dining at the property and an Extended Hours Permit to allow the hotel to accept patrons for seating after 10 p.m. daily and before 9 a.m. on the weekends. The project was originally approved by the Planning Commission on January 24, 2001, for a period of one year, with the possibility of future renewals. The most recent renewal was issued by the Director of Community Development for a period of three years with expiration on June 22, 2011.

The restaurant is located in the main building at 9400 Olympic Boulevard. The restaurant was approved for a total of 99 seats¹ (indoor and outdoor) with a maximum

¹ Condition 19, Resolution No. 1340 (attached) allows the aggregate number of 143 persons in the dining/bar area and the pool side lounge area not to exceed 143 persons (excluding staff).

number of persons in the dining/bar area, restaurant and pool side lounge area not to exceed 143 persons. No direct access from the street to the restaurant is provided. Patrons access the indoor dining area from the main lobby area. The outdoor lounge area is adjacent to the restaurant around the pool area within an interior courtyard of the hotel. This area is completely enclosed with no direct access from the street.

In order to minimize potential impacts to the residential neighbors of the hotel, the Planning Commission has imposed various operational restrictions including, but not limited to regulating hours, occupancies, and parking/valet operations. The draft resolution (Attachment A) consolidates all existing conditions of approval for ease of reference and identifies proposed modifications in an underline/strikeout format. In addition, all previous approvals for the hotel are provided in Attachment B. The proposed modifications to existing conditions of approval are described below.

REQUESTED AMENDMENTS/PROJECT DESCRIPTION

As requested, the amendment to the hotel's existing entitlements would allow the hotel to accept patrons for seating up until 11:00 p.m. on Sunday evening consistent with their existing hours Monday through Saturday, allow competitive valet parking charges, and remove the condition requiring a lease with the property at 1125 South Beverly Drive to provide parking after 6 p.m.

	Existing	Proposed
Use	Commercial - Hotel	No Change
Guestrooms	88	No Change
Parking	329 spaces required by existing entitlements Code Required Parking – 118 spaces	129 spaces (50 on-site and 79 off-site)
Valet Parking Rates	Free Valet Parking for all hotel and hotel restaurant patrons	\$9.00 for all hotel guests and restaurant patrons
Restaurant Hours	Last Seating 11:00 p.m. Monday through Saturday Sunday Restaurant Closes at 11 p.m.	Last Seating at 11:00 p.m. Everyday
Alcohol Service	No alcohol service after midnight Monday – Saturday 11 p.m. (close time) Sunday	No alcohol service after 1 a.m. everyday

DISCUSSION/ANALYSIS

The applicant seeks to modify the approvals originally granted by the Planning Commission and most recently renewed by the Director of Community Development in 2008, which allow for the hotel restaurant to be open to the public and outdoor dining on private property. There are four requests associated with this project: 1) Extended Hours to Admit Patrons on Sunday evening and Serve Alcohol Daily; 2) Allow Competitive Valet Parking Charges; and 3) Modification of Parking Supply. Each of these requests is further discussed below.

Extended Hours to Admit Patrons and Serve Alcohol

In approving the CUP to allow the restaurant to be open to the public and the DPR to allow outdoor dining on private property, the Planning Commission adopted Resolutions with many conditions in an effort to minimize any potential impacts to the adjacent residential neighborhood.

For legally non-conforming hotels in the R-4 zone, a CUP can be applied for to allow restaurants to be open to the general public if the hotel meets certain criteria. Code Section 10-3-1207(B) restricts the last seating to 11 p.m. for all hotel restaurants that are open to the public. In addition, the Transition Ordinance requires restaurants to obtain an extended hours permit for seating after 10 p.m. The hotel currently has an Extended Hours Permit allowing them to seat patrons past 10 p.m. with a final seating to occur by 11 p.m., consistent with Code restrictions, Monday through Saturday and on Sunday the restaurant must currently close by 11 p.m. While the CUP condition specifies the last seating time, with the exception of Sunday evening, there is no time specified that the restaurant must close.

The Applicant is requesting that the condition requiring a closing time on Sunday be removed and a condition be added that the last seating take place by 11 p.m. consistent with the restrictions Monday through Saturday.

The hotel's alcohol license conditions from the Department of Alcohol Beverage Control restrict alcohol sales after midnight and this condition is included in the hotel's CUP conditions. The Applicant is requesting to serve alcohol for one additional hour, until 1:00 a.m. daily.

The hotel's outdoor lounge area around the pool is contained within a courtyard within the building which also serves to buffer any potential noise and eliminate potential sources of light and glare. The additional hours of operation on Sunday night and to serve alcohol for an additional hour is not anticipated to have any significant impacts to the surrounding area.

Staff has reviewed applicable Code Enforcement files, Police Department records and the Transportation Departments records for valet permit for any complaints in the last three years involving the Avalon Hotel. There were no complaints filed with code enforcement or for the hotel's valet permit. In the last three years, the police department has had a total of two complaints related to noise. Therefore, based a review of the hotel's operations over the last three years, it appears that the hotel's operations have resulted in any impacts to the nearby residential neighborhood. The requested modifications to allow an additional hour to serve alcohol to patrons who were already seated by 11 pm and is not anticipated to result in potential impacts.

Unmetered parking in the immediate area is restricted to "permit only" after 8 p.m. and metered parking is restricted to "permit only" after 10 p.m. The hotel's valet operation is conditioned by previous resolutions to require all valet pickup and taxi pickup/dropoff in the alley after 10 p.m. away from residential uses to limit any potential noise impacts related to pedestrian queuing. Hotel patrons are instructed to wait in the designated waiting area in the hotel near the exit door until their car arrives. Therefore, no adverse impacts related to noise from pedestrian queuing are anticipated to occur as a result of the request.

Allow Competitive Valet Parking Charges

The condition to require free valet parking was originally imposed on the property in 1998 with Resolution No. 1067 when the property was the "Beverly Carlton Hotel." In 2001, the current hotel operation (Avalon Hotel) applied for a Conditional Use Permit and Development Plan Review to allow the hotel restaurant to be open to the public and to allow open air dining on private property. At that time they also requested that the Planning Commission modify Resolution No. 1067 to eliminate the condition to provide free valet parking to all patrons of the hotel restaurant. The Planning Commission approved the CUP and DPR but kept the condition to allow free valet parking to prevent any parking related impacts to the nearby residential streets from hotel restaurant patrons. Since that time the residential streets have all become permit parking zones with the closest adjacent residential street (400 block of South Canon Drive) designated as Permit Parking Zone "E" which restricts parking to one hour 8 a.m. to 8 p.m., Monday through Saturday, except by permit and no parking 8 p.m. to 2:30 a.m., except by permit on the east side of the street. The meters on the west side of the street are metered parking until 10 p.m. at which time they become part of the Permit Parking Zone "E" with no parking except by permit.

The Applicant has stated that the requirement to provide free valet parking is a significant financial impact to their operation. They have requested that the Planning Commission revisit this issue and modify the condition to allow them to charge valet parking rates that are competitive with other hotels in the City. Specifically at this time they are requesting to charge a flat rate of \$9.00 for hotel guests and restaurant patrons. Below are the rates of other hotels with restaurants open to the public:

Hotels Parking Rates	
Name	Current Valet Parking Rate
Avalon Beverly Hills	Free Valet Parking/ Requesting \$9.00
Beverly Wilshire Hotel	\$15.00
L'Ermitage	\$12.00
The Montage Hotel	\$16.00
Peninsula Beverly Hills	\$8.00 (2 hours) + \$2.00 each 30 minutes
Thompson Hotel	\$10.00 per hour w/o validation \$7.00 with validation

The majority of the street parking in the immediate adjacent area is restricted by permit zones. The rate of \$9.00 is within the range of rates that are charged by other hotels in the City and is not anticipated to be a deterrent to using the valet parking or anticipated to result in traffic or parking impacts.

Modification of Parking Supply

On-site parking is provided by spaces located throughout the site associated with each of the buildings which provide a total of 50 striped spaces. The number of parking spaces on-site can be maximized by utilizing valet operation to 65 cars.

In order to minimize any cumulative parking impacts by the restaurant use, the hotel is conditioned² to provide additional patron parking in the evening and employee parking as follows:

Parking lot	# of parking spaces	TSR	Availability
410 S. Beverly Dr.	8	Ongoing Month to month agreement	8:00 p.m. to 1:00 a.m.
420 S. Beverly Dr.	20 (additional 4 stack spaces)	Ongoing Month to month basis	7 p.m. to 7 a.m.
424 S. Beverly Dr.	11	Ongoing Month to month agreement	After 8 p.m.
1125 S. Beverly Dr.	200	Ongoing Month to month agreement	After 6:00 p.m.
1150 S. Beverly Dr.	40 (Employees ³ Parking & 13 spaces as needed basis)	Ongoing Month to month agreement	24 hours a day

² Conditions No.6 Resolution 1340 (attached) requires that sufficient parking to meet the parking needs for the hotel and restaurant be provided.

In addition to the parking that is provided by the hotel on- and off-site, there are nineteen (19) parking spaces on the east side of the 400 block of South Canon Drive, where permit parking zone "E" has been established. The parking zone only allows "1-Hour Parking, 8:00 a.m. to 8:00 p.m." Monday through Saturday, except by permit and "No parking, 8:00 p.m. to 2:30 a.m. Daily", except by permit. On the west side of the street there are twelve (12) "2-Hour" parking meters, 8:00 a.m. to 6:00 p.m., Monday to Saturday, and no parking, 10:00 p.m. to 2:30 a.m., daily, except by Permit.

The Applicant has submitted declarations from the current and past hotel managers (Attachment C) attesting that they have sufficient parking for their needs without the use of the site at 1125 South Beverly Drive (which can provide up to 200 parking spaces after 6 p.m.). According to the hotel managers' declarations, the site at 1125 South Beverly Drive has reportedly never been needed or utilized by the hotel. Further, no complaints have been recorded regarding issues related to inadequate parking or hotel/restaurant patrons impacting the residential properties surrounding the hotel. As requested by the applicant, the hotel would still maintain more parking spaces than required by the Code.

Although the hotel appears to be able to accommodate existing demand without the parking located at 1125 Beverly Drive, the request to remove 200 parking spaces is significant and staff recommends that, if the project is approved, the Commission hold a hearing within six (6) months of this approval to ensure that the hotel continues to operate without any parking related impacts.

COMPLIANCE WITH APPROVALS

In processing the requested modifications, planning staff solicited input from the divisions/departments of Code Enforcement, Transportation/Engineering, Police and Fire, to verify whether any complaints/warnings or violations have been issued, against or in conjunction with the ongoing operations of the hotel. Staff was informed that no violations were observed or issued regarding the hotel's operation from Code Enforcement and the Transportation/Engineering. The police department had a total of two violations related to noise within the last three years.

FINDINGS

Conditional Use Permit

In considering the requests to amend the Conditional Use Permit, the Planning Commission shall consider whether the continued operation of the restaurant within a

³ Based on project Resolution No. 1340, Condition 5, free parking shall be provided to hotel employees and restaurant patrons at all times.

non conforming hotel will have substantial adverse impact on the use and enjoyment of surrounding residential properties due to:

- 1) *The accumulation of garbage, trash, or other waste;*
- 2) *Noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;*
- 3) *Light and glare;*
- 4) *Odors or noxious fumes;*
- 5) *Parking demand created by the restaurant, including parking demand created by employees; or*
- 6) *Traffic.*

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

The restaurant operation does not generate substantial waste and the existing trash area located off the alley behind the main building and collection is sufficient to prevent an accumulation of trash. The Crown Disposal currently provides garbage pick-up. The applicant is required to maintain the trash collection area in a satisfactory manner at all times. 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;*

There were two complaints to the police department related to noise within the last three years. Prior conditions of approval/renewal for the restaurant use require that all valet pick-up be conducted from the alley which is surrounded by commercial uses rather than the front of the hotel which is adjacent to residential uses. No other complaints have been received related to the operations at the hotel in the past three years. The additional hour to receive patrons on Sunday night and serve alcohol is not anticipated to result in an increase of noise related to the extended hours of operation.

3) *Light and glare;*

The restaurant is surrounded by the hotel building and located in a completely enclosed area and is not exposed to the street or other properties. The proposed Extended Hours and amendment to hotel operating conditions 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 hours to receive guests on Sunday night and serve alcohol and the proposed changes to parking fees/supply are not anticipated to create any adverse impacts related to light and glare.

4) *Odors and noxious fumes;*

Due to substantial distance between the restaurant and the nearest residential property, there is no significant danger of odor or noxious fumes created by the restaurant operation. Therefore 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 hours of operation and modification of parking rates/supply is not anticipated to create any adverse impacts related odors and noxious fumes.

5) *Parking demand created by the restaurant, including parking demand created by employees;*

The Applicant has submitted declarations from the current and past hotel managers attesting that they have sufficient parking for their needs without the use of the site at 1125 South Beverly Drive (which can provide up to 200 parking spaces after 6 p.m.). According to the hotel managers' declarations, the site at 1125 South Beverly Drive has reportedly never been utilized by the hotel.

The Applicant has also requested to charge competitive valet parking rates for patrons of the restaurant as the free valet parking has significant financial impacts on the operation. The Applicant is proposing to charge \$9.00 which appears to be consistent with other hotels in the City and is not anticipated to be a deterrent from using the valet to restaurant patrons.

None of the revisions to the project entitlements would appear to result in an increased parking demand. Per Code Section 12-3-1207(B)(6), all employee parking is to be provided free which significantly reduces the chance that any employee would choose to park elsewhere. In addition, the adjacent residential streets are permit parking zones which restrict anyone from the hotel from parking in the evening.

6) Traffic.

The request to modify the Conditional Use Permit conditions does not increase the existing hotel capacities. Further, the Extended Hours Permit would provide for an additional hour to accept patrons on Sunday night. Therefore, an operational increase of one hour is not anticipated to adversely impact traffic volumes and congestion on local residential streets.

In addition, to the findings stated above, the additional findings are necessary to be made in order to allow a restaurant to be operated within a legally nonconforming hotel:

1. The hotel is located on a street identified as an "arterial" street or "collector" street in the City's general plan.

The hotel is on a street identified as an "arterial street" in the City's general plan.

2. The total dining and bar floor area of all restaurants and private dining rooms in the hotel does not exceed the floor area of any dining and bar area that existed on or before November 1, 1995.

No change is proposed as to the total dining and bar area of the restaurant.

3. No patrons of the restaurant are seated after eleven o'clock (11:00) P.M.

The hotel currently has last seating at 11 p.m. Monday through Saturday and with closing by 11 p.m. on Sunday evenings. The request is to allow last seating at 11 p.m. daily.

4. No live entertainment is performed.

The hotel does not have live entertainment.

5. No banquets or similar private receptions or parties are held at the restaurant.

The Applicant is not proposing to allow banquets or similar private receptions or parties as part of this request.

6. Parking is provided free of charge to employees to ensure that employees do not park in the public right of way.

Hotel employees are provided with free parking.

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 restaurant operation does not generate substantial waste and the existing trash area located off the alley behind the main building and collection is sufficient to prevent an accumulation of trash. The Crown Disposal currently provides garbage pick-up. The applicant is required to maintain the trash collection area in a satisfactory manner at all times. An increase in operating hours on Sunday night 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;*

In reviewing complaints related to the Avalon Hotel, there were a total of two complaints related to noise in the past three years. The additional hour to receive patrons on Sunday evening is not anticipated to result in an increase of noise related to the extended hours of operation.

3) *Light and glare;*

The restaurant is surrounded by the hotel building and located in a completely enclosed area and is not exposed to the street or other properties. 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 hours to receive guests on Sunday evening is not anticipated to create any adverse impacts related to light and glare.

4) *Odors and noxious fumes;*

Due to substantial distance between the restaurant and the nearest residential property, there is no significant danger of odor or noxious fumes created by the restaurant operation. Therefore 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 hours of operation is not anticipated to create any adverse impacts related odors and noxious fumes.

5) *Pedestrian queuing;*

The requested modification to the Extended Hours Permit is not anticipated to have an adverse impact related to pedestrian queuing. As conditioned in previous resolutions, after 10 p.m., all valet return and taxi pickup and drop-off is limited to the alley. Hotel patrons are instructed to wait in the designated waiting area in the hotel near the exit door until their car arrives. Therefore, no adverse impacts related to pedestrian queuing are anticipated to occur as a result of the request.

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

The requested Extended Hours Permit is to allow the hotel to seat guests up until 11 p.m. on Sunday evening consistent with the hours currently in place Monday through Saturday. The patrons of the hotel typically utilize the hotel's valet parking operation, as parking on the nearby residential streets is regulated by permits and prohibited after 8 p.m. for residential street parking and 10 p.m. for parking meters. 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 prohibited at night for vehicles without permits, which prevents patrons from parking in these areas. Further, sufficient parking is available to accommodate all uses within the subject property without causing overflow onto adjacent residential 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 allow the restaurant to receive patrons up until 11 p.m. Sunday evening, rather than close at 11 p.m. on Sundays. The time period (late PM and early AM) typically has lower traffic volumes (as compared to peak hours). Therefore, the proposal 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 on Olympic Boulevard within an existing R-4 zone that abuts a commercial zone. The adjacent area is primarily comprised of residential buildings and 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.

PUBLIC NOTICE AND COMMENTS

Notice of the proposed project and public hearing was mailed on June 28, 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, no comments have been received in response to the notice.

ENVIRONMENTAL DETERMINATION

The request is in conformance with the originally approved project and there have been no substantial changes to the surrounding environment that would cause additional significant impacts. Therefore, it is the determination of staff that the previously adopted Negative Declaration adequately addresses the impacts of the project.

RECOMMENDATION

Based on the foregoing analysis staff recommends that the Planning Commission direct staff to prepare a resolution approving the requests for an amendment to the Conditional Use Permit and Extended Hours Permit. Further, staff recommends the following conditions of approval:

1. The hotel shall comply with all conditions of the valet permit.
2. The hotel may charge for valet service up to a total of \$9.00 per visit for patrons of the hotel and restaurant.
3. No live entertainment shall be permitted per Code Section 10-3-1207.
4. The house of operation of the public restaurant and open air dining area, including the pool-side lounge area shall be as follows:
 - (a) Morning hours: The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall not receive patrons, including hotel guests, before 7:00 a.m. daily.

- (b) Evening hours: The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall not admit patrons, including hotel guests, after 11 p.m. daily.
5. The hotel shall comply with all conditions of their alcohol license issued by the Department of Alcohol Beverage Control.
 6. Unless otherwise modified by this Resolution, all conditions of approval contained in past resolutions for the Avalon Hotel shall remain in full force and effect throughout the life of the project.
 7. The establishment shall provide access to Fire Department, Law Enforcement, and/or Code Enforcement Officers at any time.
 8. 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.
 9. Free off-street 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.

Georgana Millican
Associate Planner

Attachments:

- Attachment A - Draft Resolution
Attachment B - Resolution No. 1382
Resolution No. 1340
Resolution No. 1285
Resolution No. 1232
Resolution No. 1217
Resolution No. 1156
Attachment C – Parking Declarations

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS AMENDING A CONDITIONAL USE PERMIT WHICH ALLOWS A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AND AMENDING AN EXTENDED HOURS PERMIT TO EXPAND HOURS OF OPERATION ON SUNDAY NIGHTS AT 9400 OLYMPIC BOULEVARD (AVALON HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES
HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On January 24, 2001 the Planning Commission adopted Resolution No. 1156 issuing a Conditional Use Permit (the "CUP") and Development Plan Review Permit ("DPR") to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9400 Olympic Boulevard (Avalon Hotel). The Planning Commission subsequently granted annual renewals for the CUP and DPR through the adoption of Resolution No. 1232 on June 13, 2002, Resolution No. 1285 on March 24, 2003, Resolution No. 1340 on August 12, 2004 and Resolution No. 1382 on June 22, 2005. The Planning Commission's decisions were subject to various conditions to minimize impacts of the Project on neighboring residential properties. The most recent renewal was issued by the Director of Community Development for a period of three years with expiration on June 22, 2011 if not otherwise extended. However, this resolution requires a review within six months of the adoption date of this resolution.

This resolution amends the above-referenced resolutions to do the following (collectively, the "Project"):

(1) Amend the Extended Hours Permit to allow the restaurant, including the bar and dining area, the open air dining area, and the pool-side lounge area, to receive patrons, including hotel guests, up until 11 p.m. daily (previously, the restaurant closed at 11 p.m. on Sundays);

(2) Amend the Conditional Use Permit and Extended Hours Permit to allow the restaurant to serve alcohol up until 1 a.m. daily;

(3) Allow the hotel to charge competitive valet parking charges for all hotel and non-hotel guests and restaurant patrons; and

(4) Modify the parking supply and amend the condition requiring a lease for up to 200 parking spaces (available on an as needed basis in the evening) at the 1125 South Beverly Drive site.

Section 2. The Project has previously 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. Based on the initial study, the previously adopted negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or the environment that would require the preparation of a subsequent negative declaration or a supplement to the previously adopted negative declaration because the requested approval will merely permit the existing restaurant to remain open to the general public and will not introduce new significant environmental effects or substantially increase the severity of the effects that previously were identified and analyzed in the adopted negative declaration. Furthermore, there are no changed circumstances or new

information, which was not known at the time the negative declaration was adopted that would require the preparation of a subsequent negative declaration or major revisions to the previously adopted negative declaration pursuant to CEQA Guidelines Section 15162. Therefore, the original negative declaration represents the independent judgment of the City and there is no substantial evidence that the approval of the Project, as modified, may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 3. On July 8, 2010, the Planning Commission held a duly noticed public hearing to consider the application to amend the CUP and Extended Hours Permit, at which time evidence, both oral and written, was presented.

Section 4. Mitchell Dawson of the Dawson Tilem and Gole, on behalf of The KOR Group on behalf of the Honeymoon Real Estate, L.P., owner and operator of the Avalon Hotel, Inc. (hereafter the "Applicant"), filed an application to amend the CUP and Extended Hours Permit which allow the operation of a public restaurant within a nonconforming hotel and the DPR to allow open air dining at the Project.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines that, as conditioned under Resolution Nos. 1156, 1232, 1285, 1340 and 1382 (as compiled in this Resolution), the request to allow additional hours on Sunday evening to accept patrons up until 11 p.m. and to allow the restaurant to serve alcohol up until 1 a.m. daily is not anticipated to have an adverse impact on the surrounding neighborhood. During previous hearings for the project, the Planning Commission imposed conditions intended to prevent any

adverse impacts related to the restaurant open to the public operating in a non-conforming hotel within the R-4 zone.

The Planning Commission finds that there have been no violations of the conditions of the CUP, Extended Hours Permit or DPR. Planning staff solicited input from the division/departments of Building and Safety, Transportation/Engineering, Police and Fire to verify whether any complaints/warnings or violations have been issued against or in conjunction with the ongoing operations of the hotel. The Department of Transportation indicated that in the past two years no violations or any outstanding concerns regarding the hotel's valet service operation were observed. Code Enforcement Inspection reported no violations; and the Fire Department conducts periodic inspections and reported no violations.

Section 6. Pursuant to Beverly Hills Municipal Code Section 10-3.1207(c), the Planning Commission may grant a Conditional Use Permit to allow a restaurant to be open to the public within a non-conforming hotel if it finds that operation of the restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties.

Section 7. In considering the application for the amendment to the Conditional Use Permit, the Planning Commission considered whether the operation of the restaurant within a non-conforming hotel will have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to:

1. The accumulation of garbage, trash, or other waste;
2. Noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;
3. Light and glare;

4. Odors and noxious fumes;
5. Parking demand created by the restaurant, including parking demand created by employees; or
6. Traffic.

Section 8. Based upon the entire record in this matter, including the staff reports, the Planning Commission finds as follows:

8.1 The revisions to the Conditional Use Permit including charging for parking, modifying the parking supply, and allowing extended hours on Sunday evenings to allow the restaurant, including the bar and dining area, the open air dining area, and the pool-side lounge area, to receive patrons, including hotel guests, up until 11 p.m. nightly are not expected to generate substantial additional waste and it is anticipated that the trash area and collection will be sufficient to prevent an accumulation of trash. By condition of this resolution, the Applicant is required to maintain the trash collection area in a satisfactory manner at all times. Given these conditions regulating waste management and the limited nature of the proposed extended hours, there is no significant danger of waste accumulation, odors or noxious fumes created by the operation.

8.2 There were two complaints to the police department related to noise within the last three years. Prior conditions of approval/renewal for the restaurant use require that all valet pick-up be conducted from the alley which is surrounded by commercial uses rather than the front of the hotel which is adjacent to residential uses. No other complaints have been received related to the operations at the hotel in the past three years. The additional hour to receive patrons on Sunday night and serve alcohol is not anticipated to result in an increase of noise related to the extended hours of operation.

8.3 The operation of the restaurant will not create any significant light or glare impacts for the neighboring residential areas. No new lighting for the establishment will be introduced as a result of the extended hours operation or changes to the Conditional Use Permit. The restaurant is located at the interior of the hotel and all valet pickup and taxi cab pickup and drop off after 10 p.m. is from the alley behind the building. The restaurant is surrounded by the hotel building and located in a completely enclosed area and is not exposed to the street or other properties. The proposed Extended Hours and amendment to hotel operating conditions 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 hours to receive guests on Sunday night and serve alcohol and the proposed changes to parking fees/supply are not anticipated to create any adverse impacts related to light and glare.

8.4 Due to substantial distance between the restaurant and the nearest residential property, there is no significant danger of odor or noxious fumes created by the restaurant operation. Therefore 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 hours of operation and modification of parking rates/supply is not anticipated to create any adverse impacts related odors and noxious fumes.

8.5 The Applicant has submitted declarations from the current and past hotel managers attesting that they have sufficient parking for their needs without the use of the site at 1125 South Beverly Drive (which can provide up to 200 parking spaces after 6 p.m.). According to the hotel managers' declarations, the site at 1125 South Beverly Drive has reportedly never been utilized by the hotel.

The Applicant has also requested to charge competitive valet parking rates for patrons of the restaurant as the free valet parking has significant financial impacts on the operation. The Applicant is proposing to charge \$9.00 which appears to be consistent with other hotels in the City and is not anticipated to be a deterrent from using the valet to restaurant patrons.

None of the revisions to the project entitlements would appear to result in an increased parking demand. Per Code Section 12-3-1207(B)(6), all employee parking is to be provided free which significantly reduces the chance that any employee would choose to park elsewhere. In addition, the adjacent residential streets are permit parking zones which restrict anyone from the hotel from parking in the evening.

8.6 The request to modify the Conditional Use Permit conditions does not increase the existing hotel capacities. Further, the Extended Hours Permit would provide for an additional hour to accept patrons on Sunday night. Therefore, an operational increase of one hour is not anticipated to adversely impact traffic volumes and congestion on local residential streets.

In addition, to the findings stated above, the additional findings are necessary to be made in order to allow a restaurant to be operated within a legally nonconforming hotel:

1. The hotel is located on a street identified as an "arterial" street or "collector" street in the City's general plan.

The hotel is on a street identified as an "arterial street" in the City's general plan.

2. The total dining and bar floor area of all restaurants and private dining rooms in the hotel does not exceed the floor area of any dining and bar area that existed on or before November 1, 1995.

No change is proposed as to the total dining and bar area of the restaurant.

3. No patrons of the restaurant are seated after eleven o'clock (11:00) P.M.

The hotel currently has last seating at 11 p.m. Monday through Saturday and with closing by 11 p.m. on Sunday evenings. The request is to allow last seating at 11 p.m. daily.

4. No live entertainment is performed.

The hotel does not have live entertainment.

5. No banquets or similar private receptions or parties are held at the restaurant.

The Applicant is not proposing to allow banquets or similar private receptions or parties as part of this request.

6. Parking is provided free of charge to employees to ensure that employees do not park in the public right of way.

Hotel employees are provided with free parking.

Section 9. Pursuant to Beverly Hills Municipal Code Section 10-3.1958(c), the Planning Commission may 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.

Section 10. In considering the application for the amendment to the Extended Hours Permit, the Planning Commission considered whether the Extended Hours will 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 Project site;
 2. Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation;
 3. Light and glare;
 4. Odors and noxious fumes;
 5. Pedestrian queuing;
 6. Crime or peril to personal safety and security;
 7. Use of residential streets for parking which is likely to cause activity associated with the extended hours operation to intrude substantially into a residential area;
 8. The effects on traffic volumes and congestion on local residential streets;
- and

9. The cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

Section 11. Based upon the entire record in this matter, including the staff reports, the Planning Commission 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:

11.1 The restaurant operation does not generate substantial waste and the existing trash area located off the alley behind the main building and collection is sufficient to prevent an accumulation of trash. The Crown Disposal currently provides garbage pick-up. The applicant is required to maintain the trash collection area in a satisfactory manner at all times. An increase in operating hours on Sunday night 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.

11.2 In reviewing complaints related to the Avalon Hotel, there were a total of two complaints related to noise in the past three years. The additional hour to receive patrons on Sunday evening is not anticipated to result in an increase of noise related to the extended hours of operation.

11.3 The restaurant is surrounded by the hotel building and located in a completely enclosed area and is not exposed to the street or other properties. 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 hours to receive guests on Sunday evening is not anticipated to create any adverse impacts related to light and glare.

11.4 Due to substantial distance between the restaurant and the nearest residential property, there is no significant danger of odor or noxious fumes created by the restaurant operation. Therefore 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 hours of operation is not anticipated to create any adverse impacts related odors and noxious fumes.

11.5 The requested modification to the Extended Hours Permit is not anticipated to have an adverse impact related to pedestrian queuing. As conditioned in previous resolutions, after 10 p.m., all valet return and taxi pickup and drop-off is limited to the alley. Hotel patrons are instructed to wait in the designated waiting area in the hotel near the exit door until their car arrives. Therefore, no adverse impacts related to pedestrian queuing are anticipated to occur as a result of the request.

11.6 The requested Extended Hours Permit is to allow the hotel to seat guests up until 11 p.m. on Sunday evening consistent with the hours currently in place Monday through Saturday. The patrons of the hotel typically utilize the hotel's valet parking operation, as parking on the nearby residential streets is regulated by permits and prohibited after 8 p.m. for residential street parking and 10 p.m. for parking meters. 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.

11.7 Parking on residential streets in the vicinity of the subject property is regulated by permits and prohibited at night for vehicles without permits, which prevents patrons from parking in these areas. Further, sufficient parking is available to accommodate all uses within the subject property without causing overflow onto adjacent residential streets. Therefore, the proposed project is not anticipated to result in adverse parking impacts and intrusion into residential areas.

11.8 The request for Extended Hours does not modify existing hotel operations or capacities. Further, the Extended Hours Permit would allow the restaurant to receive patrons up until 11 p.m. Sunday evening, rather than close at 11 p.m. on Sundays. The time period (late PM and early AM) typically has lower traffic volumes (as compared to peak hours). Therefore, the proposal is not anticipated to adversely impact traffic volumes and congestion on local residential streets.

11.9 The location of the subject property is on Olympic Boulevard within an existing R-4 zone that abuts a commercial zone. The adjacent area is primarily comprised of residential buildings and 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.

Section 12. Based on the foregoing, the Planning Commission hereby amends the CUP and approves the Extended Hours Permit to expand the hours of operation on Sunday subject to all conditions existing conditions of approval except as modified by this resolution. Therefore, this resolution rescinds and otherwise replaces previous approvals. All applicable conditions of approval have been consolidated into this Resolution as follows:

1. Except as authorized by this resolution, the Project shall comply with all applicable provisions of the Beverly Hills Municipal Code, including but not limited to the City's zoning and building codes.

2. Except as otherwise modified by this Resolution, the Project shall substantially comply with the plans submitted by the applicant for the Planning Commission meeting of June 17, 2004.

Parking Conditions

~~3. Valet parking shall be provided free of charge to hotel guests, non hotel guests and all restaurant patrons. [Resolution No. 1156.]~~

~~4.3. 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. and restaurant patrons at all times. [Resolution No. 1156 as modified by Resolution No. 1340.] The hotel may charge up to \$9.00 per visit for patrons of the hotel, restaurant and lounge area.~~

5.4. The applicant shall submit evidence satisfactory to the Director of Community Development attesting to the availability of sufficient parking to meet the parking needs for the hotel and restaurant, such evidence may include a parking demand study, if requested by the Director of Community Development. All leases for off-site parking shall be in writing and shall require the lessor to provide at least 30-days advance written notice to the City before such lease may be amended or terminated. The C.U.P. and all rights granted hereunder shall terminate if the applicant does not maintain parking leases for sufficient parking to satisfy the parking demand for the Project unless comparable alternative parking is provided to the

satisfaction of the Director of Community Development prior to the termination of the off-site parking lease(s). If the C.U.P. is terminated pursuant to this condition, the Applicant shall immediately cease operation of the restaurant as a dining facility open to the public, including both the bar and dining area, and the open air dining area, including the pool side lounge area. [Resolution No. 1156 as modified by Resolution No. 1340.]

~~6.5.~~ All conditions of the valet parking permit shall be incorporated as conditions of approval of this C.U.P. and D.P.R. [Resolution No. 1156.]

~~7.~~ The hotel management shall require hotel and restaurant staff to advise all patrons of the restaurant of the hotel's restaurant reservation policy and of the availability of free valet parking for restaurant patrons. The Hotel web site shall also clearly advertise the restaurant reservation policy and the availability of free valet parking on both the web site homepage and the dining page for patrons of the restaurant. In addition, the availability of free valet parking should be included in any advertisements, special promotions and/or related marketing materials.

~~8.~~ The Applicant shall install and maintain at all times signage, satisfactory in form and quantity to the Director of Community Development, advertising the availability of free valet parking for patrons of the restaurant. The signs shall be installed at the main driveway of the hotel on Olympic Boulevard, in the parkway south of the main entrance driveway on Canon Drive, and at such other locations as the Director shall reasonably deem necessary. [Resolution No. 1232 as modified by Resolution No. 1340.]

~~9.6.~~ The Applicant shall submit a parking management plan to the Directors of Community Development and Transportation for review and approval. The parking management plan shall incorporate all conditions of approval recommended by the Traffic and Parking Commission, including but not limited to the following: (1) availability of the two new

parking facilities at 1150 and ~~1125~~-S. Beverly Drive, (2) number of valet operators, and (3) the valet return location in the alley behind the Project site. The parking management plan shall include lease agreements for these ~~two~~ parking locations. [Resolution No. 1232 as modified by Resolution No. 1340.]

~~10.7.~~ After 10:00 p.m. daily, the valet return shall be located in the alley shall, subject to approval by the Department of Transportation or his designee. [Resolution No. 1232.]

~~11.8.~~ After 10:00 p.m. daily, all taxi pick-up and drop-off activity shall be limited to the alley, subject to approval by the Director of Transportation or his designee. [Resolution No. 1285.]

~~12.9.~~ To prevent vehicles from blocking the alley, the conditions of approval placed on the valet permit require no more than two vehicles to queue in the alley at one time, and prohibit valet vehicle staging in the alley. The hotel shall instruct patrons to wait in the designated waiting area in the hotel near the exit door until their car arrives. If a patron does not claim the vehicle upon return, the valet attendant shall be required to return the vehicle to the parking garage. [Resolution No. 1232.]

~~13.10.~~ The Applicant shall maintain at all times the additional lighting in the alley where the valet return is designated as required by Resolution No. 1232.

~~14.11.~~ The Applicant shall prepare and implement a comprehensive loading management plan for the hotel, including the restaurant, satisfactory to the Directors of Community Development and Transportation. The loading management plan shall include coordinated scheduling and advance authorization of deliveries to ensure that two vehicles do not arrive at the same time. The loading management plan shall also include procedures to minimize

delivery times and presence of a loading manager at the loading area at all times when it is in use to ensure that trucks do not impede the flow of pedestrians or vehicular traffic in the alley. [Resolution No. 1340.]

Operational Restrictions – Public Restaurant/Open Air Dining Area

~~15.12.~~ The hours of operation of the public restaurant and open air dining area, including the pool-side lounge area shall be as follows:

(a) Morning hours: The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall not receive patrons, including hotel guests, before 7:00 a.m. daily.

(b) Evening hours: The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall not admit patrons, including hotel guests, after 11:00 p.m. ~~daily. Monday through Saturday, inclusive.~~ ~~The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall close at 11:00 p.m. on Sunday nights.~~ [Resolution No. 1156 and Resolution No. 1285.]

13. The Application shall maintain the trash collection area in a satisfactory manner at all times.

~~16.14.~~ No banquets or similar private receptions which would allow the entire restaurant, including the bar and dining area, the open air dining area, and the pool-side lounge area, to be rented out for an event shall be permitted. [Resolution No. 1156.]

~~17.15.~~ No catered events shall be permitted in the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, at any time. The on-site restaurant kitchen facilities shall be used to prepare all food for events in the

restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area. [Resolution No. 1285.]

~~18.16.~~ The aggregate total of persons in the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, and any meeting room(s), at any given time shall not exceed 143 persons (excluding staff). Notwithstanding the foregoing, nothing in this condition shall be construed to bar the hotel operator from requesting an amendment to the Zoning Code at a later date to permit a greater number of persons to use the pool side lounge area. [Resolution No. 1285.]

~~19.17.~~ No live entertainment shall be allowed in the outdoor dining area and the pool side lounge area at any time. [Resolution No. 1156 as modified by Resolution No. 1340.]

~~20.18.~~ Pre-recorded music may be played inside the restaurant during the hours of operation, provided the volume levels conform to the noise level standard and would not be audible beyond the property line of the premises. [Resolution No. 1340.]

~~21.19.~~ The hotel management shall post signs satisfactory to the Director of Community Development in the restaurant, the outdoor seating area, the pool-side lounge area and any meeting rooms displaying the aggregate maximum occupancy limits imposed by this Resolution. [Resolution No. 1340.]

General Operational Conditions

~~22.20.~~ Large-scale film, video and other commercial shoots (as defined in the Office of Community Services Film Permit Guidelines) at the hotel shall be limited to one

per month up to an aggregate maximum of ten (10) such events per year subject to City's approval. [Resolution No. 1285.]

~~23.21.~~ The Applicant shall implement a program to deal with restaurant patrons who display signs of intoxication. [Resolution No. 1285.]

~~24.22.~~ The Applicant shall comply with any conditions imposed by the California Department of Alcoholic Beverage Control on the Project's ABC license, including any restrictions imposed on the sale, service or consumption of alcoholic beverages at the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area. ~~All alcoholic beverage service shall cease at midnight Monday through Saturday and at 11:00 p.m. on Sundays.~~ [Resolution No. 1285.] All alcoholic beverage service shall cease at 1:00 a.m. daily.

~~25.23.~~ All hotel contracts with persons or organizations who host events at the hotel shall include the conditions of approval set forth in the resolutions approving this CUP as a condition of such contracts. [Resolution No. 1285.]

~~26.24.~~ The Applicant shall obtain a special events permit from the City Council for any event in the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area attended by an aggregate total in excess of 143 persons. Applications for a special events permit shall be submitted on the form provided by the City. [Resolution No. 1285.]

~~27.25.~~ The hotel management shall designate specific hotel employees to coordinate community relations and to act as the liaisons with nearby residents to respond to any disturbances to the neighboring residents in a prompt manner. At least one designated

community liaison shall be present and available at the hotel premises 24 hours a day 7 days per week to respond to any disturbances. The names and telephone numbers of the designated contact persons shall be transmitted to the Director of Community Development. In addition, the Applicant shall post the name and telephone number of the contact person on call on the site in a location readily visible to the general public and approved by the Director of Community Development. [Resolution No. 1285.]

26. No equipment, furnishings or any other items, including, but not limited to heaters or propane cylinders and other outdoor dining equipment, shall be stored in the loading area or any other area on or to the rear of the main hotel building on the property. [Resolution No. 1340.]

28.27. The establishment shall provide access to the Fire Department, Law Enforcement, and/or Code Enforcement Officers at any time.

Procedural Requirements.

29.28. Commencing on the effective date of this Resolution, the Applicant shall be required to:

(a) Annually submit an affidavit to the Director of Community Development attesting to compliance with the conditions of approval set forth in this Resolution and the sufficiency of the on-site and off-site parking to satisfy the parking needs generated by the use. 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; and

(b) File any application for renewal of the C.U.P. and D.P.R. at least sixty (60) days prior to the expiration of this approval. A request to expand the hours of operation may be included as part of the renewal request. [Resolution No. 1156 and Resolution No. 1340.]

40) This C.U.P., and D.P.R. and Extended Hours Permit (collectively the “Permit”) shall expire on January 8, 2011, and all rights granted by this CUP, and DPR and Extended Hours Permit shall terminate at that time. Unless the CUP, and DPR and Extended Hours are renewed, or a new CUP, and DPR and Extended Hours Permit is granted, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area. Any application for a renewal must be filed at least sixty (60) days prior to the expiration of these approvals.

————All applications for renewal shall be in accordance with the provisions of Section 10-3-1240(e) and subject to applicable fees. The renewal hearing shall be conducted by the Planning Commission (the “Commission”) to verify that the amendments to the Conditional Use Permit and Extended Hours Permit are not resulting in adverse impacts to the adjacent residential area. In addition, a parking demand study will be required to verify that the parking is

~~sufficient to meet the demands of the hotel and restaurant operation. Director of Community Development (the "Director"). Any decision of the Director may be appealed to the Planning Commission for a de novo review. In addition, the Director may, in his or her sole discretion, refer the renewal application to the Planning Commission for review. Notwithstanding the foregoing, in the event the City receives complaints from adjacent residents regarding the operation of the Project or any violations of the conditions of approval set forth in this resolution or any provision of the Municipal Code are reported during the review period, the annual review shall be automatically referred to the Planning Commission.~~

~~If the Director or Planning Commission does not extend the CUP, and DPR and Extended Hours Permit, the CUP, and DPR and Extended Hours Permit shall expire and all rights possessed under the Permits shall be terminated. Provided, however, if the Applicant files an application for an extension, any existing CUP, and DPR and Extended Hours Permit shall be extended until the City takes final action on the application.~~

~~Any application for an extension of this CUP, and DPR and Extended Hours Permit shall be subject to the application fees established by Resolution of the City Council.~~

~~Upon expiration of the extension and any future extension, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any further extensions granted shall be governed by the provisions of the Beverly Hills Municipal Code.~~

Compliance

~~30.29.~~ The Applicant shall deposited with the City a ten thousand dollar (\$10,000) cash deposit to ensure compliance with the conditions of these resolutions. The deposit shall be maintained throughout the life of the CUP unless the Planning Commission

determines otherwise. In the event that three or more such violations occur and the Applicant fails to cure, if applicable, such violations within a reasonable time, the City may: (a) retain the deposit to cover the costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten (10) days of the notice; and (c) suspend the CUP until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. 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 immediate commencement of suspension proceedings, and the requirement to deposit an additional \$10,000, pursuant to the procedure set forth above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited.

The requirements of this paragraph are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this resolution or the Beverly Hills Municipal Code. [Resolution No. 1285.]

~~34.30.~~ If in any 90-day period the Applicant has two (2) violations of any of the conditions set forth hereinafter, the Director of Community Development shall immediately schedule a hearing before the Planning Commission to review this C.U.P., ~~and D.P.R.~~ and Extended Hours Permit. Such proceedings shall be conducted in accordance with the provisions of Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code. For the purposes of this Condition, violations of any of the following conditions shall constitute grounds for

reviewing the C.U.P. and D.P.R. and may serve as grounds to revoke the same: Conditions No. 4, 5, 8, 9, 16, 19, 20, 22, 23, 25 and 28 3, 12, 16, 17, 19, 20, 22, and 25.

Standard Conditions

~~32. Within three (3) working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.~~

~~33.31.~~ 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 the amendment to the C.U.P. and Extended Hours Permit 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 amendment to the C.U.P. and D.P.R. and Extended Hours Permit **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 C.U.P. and Extended Hours Permit D.P.R..

Section 10. If this Resolution is invalidated for any reason, all rights granted hereunder shall terminate and the Applicant shall immediately cease all operations authorized by this Resolution.

Section 11. 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: July 8, 2010

Lili Bosse
Chair of the Planning Commission of
the City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

Jonathan Lait, AICP
City Planner

Attachment A

Draft Resolution

Attachment B

Resolution No. 1382

Resolution No. 1340

Resolution No. 1285

Resolution No. 1232

Resolution No. 1217

Resolution No. 1156

RESOLUTION NO. 1382

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS EXTENDING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AND A DEVELOPMENT PLAN REVIEW FOR OPEN AIR DINING, AND APPROVING AN EXTENDED HOURS PERMIT TO EXPAND HOURS OF OPERATION ON SATURDAY AND SUNDAY MORNINGS AT 9400 OLYMPIC BOULEVARD (AVALON HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES
HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On January 24, 2001 the Planning Commission adopted Resolution No. 1156 issuing a Conditional Use Permit (the "CUP") and Development Plan Review Permit ("DPR") to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9400 Olympic Boulevard (Avalon Hotel). The Planning Commission subsequently granted annual renewals for the CUP and DPR through the adoption of Resolution No. 1232 on June 13, 2002, Resolution No. 1285 on March 24, 2003 and Resolution No. 1340 on August 12, 2004. The Planning Commission's decisions were subject to various conditions to minimize impacts of the Project on neighboring residential properties.

This resolution amends the above-referenced resolutions to do the following (collectively, the "Project"):

(1) Renew the CUP and DPR approvals for one year (until March 24, 2006), after which time renewal will be at the discretion of the Director of Community Development;

(2) Approve the Applicant's request for an Extended Hours Permit to amend Condition No. 16(a) of Resolution No. 1340 to allow the restaurant, including the bar and dining area, the open air dining area, and the pool-side lounge area, to receive patrons, including hotel guests, before 7:00 a.m., Monday through Sunday (previously, the restaurant opened at 9 a.m. on Saturdays and Sundays); and

(3) Deny the Applicant's request for an Extended Hours Permit to amend Condition No. 16(b) of Resolution No. 1340 to allow the restaurant including the bar and dining area, the open air dining area, and the pool-side lounge area to admit patrons including hotel guests after 11:00 p.m., Monday through Saturday.

Section 2. The Project has previously 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. Based on the initial study, the previously adopted negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or the environment that would require the preparation of a subsequent negative declaration or a supplement to the previously adopted negative declaration because the requested approval will merely permit the existing restaurant to remain open to the general public and will not introduce new significant environmental effects or substantially increase the severity of the effects that previously were identified and analyzed in the adopted negative declaration. Furthermore, there are no changed circumstances or new

information, which was not known at the time the negative declaration was adopted that would require the preparation of a subsequent negative declaration or major revisions to the previously adopted negative declaration pursuant to CEQA Guidelines Section 15162. Therefore, the original negative declaration represents the independent judgment of the City and there is no substantial evidence that the approval of the Project, as modified, may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 3. On May 25, 2005, the Planning Commission held a duly noticed public hearing to consider the CUP and DPR renewal applications, at which time evidence, both oral and written, was presented.

Section 4. Condition No. 31 of Resolution No. 1340 states that the CUP and the DPR approval shall expire on March 24, 2005. Condition No. 31 further provides that any application for renewal of the CUP and DPR shall be reviewed by the Planning Commission prior to the expiration of these approvals.

Kate Bartolo, of the KOR Group, on behalf of Honeymoon Real Estate, L.P., owner and operator of the Avalon Hotel, Inc. (hereafter the "Applicant"), timely filed renewal applications for the CUP to continue the operation of a public restaurant within a nonconforming hotel and the DPR to allow open air dining at the Project. In accordance with the provisions of

the Resolutions approving the Project, applications for renewal of the CUP and DPR must be reviewed annually.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines that, as conditioned under Resolution Nos. 1156, 1232, 1285 and 1340 (as compiled in Resolution No. 1340), the operation of the restaurant and outdoor dining area at the Project site has not had an adverse impact on the surrounding neighborhood. During previous hearings, the Planning Commission received testimonies from neighboring properties regarding noise impacts. Therefore, the Commission imposed several conditions, including restricting the last seating of the restaurant/bar for restaurant patrons, including hotel guests, to 11:00 p.m., Monday through Saturday. In an effort to reduce noise from patrons of the restaurant entering or exiting the restaurant, the hotel has partially paid for an apartment building across the Avalon Hotel to double-pane the front windows facing Olympic Boulevard. Because there are concerns about noise in the evening hours, the Applicant's request to extend the restaurant's hours of operation in the evening past 11:00 p.m. has been denied. Although the Applicant's request is for the hotel guests only, it would be difficult to distinguish between restaurant patrons and hotel guests and the enforcement of such operation. However, Applicant's request to allow the restaurant to open at 7 a.m. on Saturdays and Sundays has been approved.

The Planning Commission finds that there have been no violations of the conditions of the CUP or DPR. Planning staff solicited input from the division/departments of Building and Safety, Transportation/Engineering, Police and Fire to verify whether any complaints/warnings or violations have been issued against or in conjunction with the ongoing

operations of the hotel. The Department of Transportation indicated that in the past year no violations or any outstanding concerns regarding the hotel's valet service operation were observed. The Code Enforcement Division conducted three separate inspections during the months of April and May 2005 to ensure that the Avalon Hotel is observing all of the imposed conditions of approval. Code Enforcement Inspection reported no violations; and the Fire Department conducts periodic inspections and reported no violations. The Planning Commission further finds that it can continue to make each of the findings set forth in Resolution Nos. 1156, 1232, 1285 and 1340 in an affirmative manner and hereby adopts those findings and renews the CUP and DPR through and including June 22, 2006, subject to all conditions set forth in Section 9 below.

Section 6. Pursuant to Beverly Hills Municipal Code Section 10-3.1958(c), the Planning Commission may 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.

Section 7. In considering the application for the Extended Hours Permit, the Planning Commission considered whether the extended morning hours operation will 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 Project site;

2. Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation;
 3. Light and glare;
 4. Odors and noxious fumes;
 5. Pedestrian queuing;
 6. Crime or peril to personal safety and security;
 7. Use of residential streets for parking which is likely to cause activity associated with the extended hours operation to intrude substantially into a residential area;
 8. The effects on traffic volumes and congestion on local residential streets;
- and
9. The cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

Section 8. Based upon the entire record in this matter, including the staff reports, the Planning Commission finds as follows:

8.1 Extending the morning hours of operation to allow the restaurant, including the bar and dining area, the open air dining area, and the pool-side lounge area, to receive patrons, including hotel guests, at 7:00 a.m., on Saturday and Sunday (the restaurant already receives patrons at 7:00 a.m., Monday through Friday, but was restricted to opening at 9 a.m. on Saturday and Sunday) will not result in disruption of the peace and quiet of the adjacent neighborhood. Concerns by neighboring properties regarding noise impacts have focused on persons entering or exiting the restaurant during the evening hours. The Commission has

imposed conditions to reduce potential noise impacts of the Project, including the provision of free valet parking at the hotel, and by condition of this resolution, the Applicant will include information regarding the availability of free parking in advertisements, special promotions and/or related marketing materials. In addition, patrons and employees are prohibited from parking on residential streets during the extended morning hours. Therefore, the restaurant's extended morning hours of operation will not impact parking, traffic or noise in nearby residential areas.

8.2 The extended morning hours are not expected to generate substantial additional waste and it is anticipated that the trash area and collection will be sufficient to prevent an accumulation of trash. By condition of this resolution, the Applicant is required to maintain the trash collection area in a satisfactory manner at all times. Given these conditions regulating waste management and the limited nature of the proposed extended hours, there is no significant danger of waste accumulation, odors or noxious fumes created by the extended morning hours operation.

8.3 The extended morning hours operation will not create any significant light or glare impacts for the neighboring residential areas. No new lighting for the establishment will be introduced as a result of the extended morning hours operation. The restaurant is located at the interior of the hotel. In order to reduce any noise impacts due to employees or visitors entering or exiting the hotel, the Applicant has partially paid to double-pane the windows of the apartment building facing the Hotel. Therefore, it is not anticipated that noise due to employees or visitors entering or exiting the extended morning hours operation will significantly affect the neighboring residential areas during the period of extended morning hours. Because intrusion into the

neighboring properties will be minimized given the restaurant's location and the conditions imposed upon the operation, the extended morning hours operation should not significantly effect crime, or peril to personal safety and/or security in the area.

The extended morning hours operation of a restaurant in this location will not provide any additional cumulative impact on residential properties.

Section 9. Based on the foregoing, the Planning Commission hereby renews the CUP and DPR through and including June 22, 2006, and approves the Extended Hours Permit to expand the hours of operation on Saturday and Sunday subject to all conditions set forth in Resolution No. 1340 except as modified below:

1. Condition No. 8 is hereby amended to read as follows:

“8. The hotel management shall require hotel and restaurant staff to advise all patrons of the restaurant of the hotel's restaurant reservation policy and of the availability of free valet parking for restaurant patrons. The Hotel web site shall also clearly advertise the restaurant reservation policy and the availability of free valet parking on both the web site homepage and the dining page for patrons of the restaurant. In addition, the availability of free valet parking should be included in any advertisements, special promotions and/or related marketing materials.”

2. The Application shall maintain the trash collection area in a satisfactory manner at all times.

3. Condition No. 31 of Resolution No. 1340 is hereby amended to read as follows:

“31. This CUP and DPR shall expire on June 22, 2006, and all rights granted by this CUP and DPR shall terminate at that time. Unless the CUP and DPR are renewed, or a new CUP and DPR granted, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area. The Applicant shall have no right to renewal of the CUP or DPR. Any application for a new CUP and DPR must be filed at least sixty (60) days prior to the expiration of these approvals.

All applications for renewal shall be in accordance with the provisions of Section 10-3-1240(e). The renewal hearing shall be conducted by the Director of Community Development (the “Director”). Any decision of the Director may be appealed to the Planning Commission for a de novo review. In addition, the Director may, in his or her sole discretion, refer the renewal application to the Planning Commission for review. Notwithstanding the foregoing, in the event the City receives complaints from adjacent residents regarding the operation of the Project or any violations of the conditions of approval set forth in this resolution and Resolution No. 1340 or any provision of the Municipal Code are reported during the review period, the annual review shall be automatically referred to the Planning Commission.

If the Director or Planning Commission does not extend the CUP and DPR, the CUP and DPR shall expire and all rights possessed under the Permits shall be terminated. Provided, however, if the Applicant files an

application for an extension, any existing CUP and DPR shall be extended until the City takes final action on the application.

Any application for an extension of this CUP and DPR shall be subject to the application fees established by Resolution of the City Council.

Upon expiration of the extension and any future extension, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any further extensions granted shall be governed by the provisions of the Beverly Hills Municipal Code.”

4. Condition No. 16 of Resolution No. 1340 is hereby amended to read as follows:

“16. The hours of operation of the public restaurant and open air dining area, including the pool-side lounge area shall be as follows:

(a) Morning hours: The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall not receive patrons, including hotel guests, before 7:00 a.m. daily.

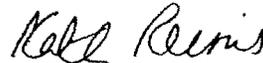
(b) Evening hours: The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall not admit patrons, including hotel guests, after 11:00 p.m. Monday through Saturday, inclusive. The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall close at 11:00 p.m. on Sunday nights.”

5. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in the Resolution No. 1340 and said conditions are incorporated herein by this reference and expressly made a part of this approval.

Section 10. If this Resolution is invalidated for any reason, all rights granted hereunder shall terminate and the Applicant shall immediately cease all operations authorized by this Resolution.

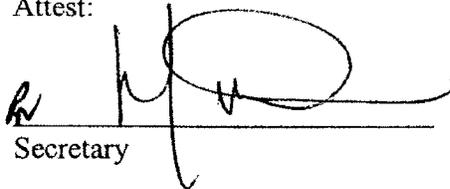
Section 11. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 6-22-05



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

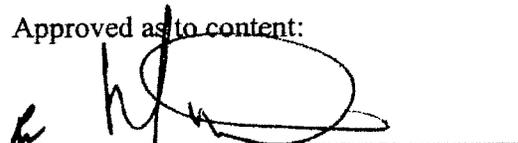
Attest:


Secretary

Approved as to form:


Robert H. Pittman
Assistant City Attorney

Approved as to content:


Mahdi Aluzri
Director of Community Development

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. 1382 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on June 22, 2005, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

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

NOES: None.



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

RESOLUTION NO. 1340

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS EXTENDING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AND A DEVELOPMENT PLAN REVIEW FOR OPEN AIR DINING AT 9400 OLYMPIC BOULEVARD (AVALON HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On January 24, 2001 the Planning Commission adopted Resolution No. 1156 issuing a Conditional Use Permit (the "C.U.P.") and Development Plan Review Permit ("D.P.R.") to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9400 Olympic Boulevard (Avalon Hotel) (hereafter the "Project"). The Planning Commission subsequently granted annual renewals for the CUP and DPR through the adoption of Resolution No. 1232 on June 13, 2002, and Resolution No. 1285 on March 24, 2003. The Planning Commission's decisions were subject to various conditions to minimize impacts of the Project on neighboring residential properties.

Section 2. Condition No. 16 of Resolution No. 1285 states that the C.U.P. and the D.P.R. approval shall expire on March 24, 2004. Condition No. 16 further provides that any application for renewal of the C.U.P. and D.P.R. shall be reviewed by the Planning Commission prior to the expiration of these approvals.

Kate Bartolo, of the KOR Group, on behalf of Honeymoon Real Estate, L.P., owner and operator of the Avalon Hotel, Inc. (hereafter the “Applicant”), timely filed renewal applications for the C.U.P. to continue the operation of a public restaurant within a nonconforming hotel and the D.P.R. to allow open air dining at the Project.

Section 3. The Project has previously 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. Based on the initial study, the previously adopted negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or the environment that would require the preparation of a subsequent negative declaration or a supplement to the previously adopted negative declaration because the requested approval will merely permit the existing restaurant to remain open to the general public and will not introduce new significant environmental effects or substantially increase the severity of the effects that previously were identified and analyzed in the adopted negative declaration. Furthermore, there are no changed circumstances or new information, which were not known at the time the negative declaration was adopted that would require the preparation of a subsequent negative declaration or major revisions to the previously adopted negative declaration pursuant to CEQA Guidelines Section 15162. Therefore, the original negative declaration represents the independent judgment of the City and there is no substantial evidence that the renewal of the approval of the Project, as modified, may have any significant environmental impact. The

documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 4. On June 17, 2004, and July 28, 2004, the Planning Commission held a duly noticed public hearing to consider the C.U.P. and D.P.R. renewal applications, at which time evidence, both oral and written, was presented.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines that, as conditioned under Resolution Nos. 1156, 1232 and 1285, the operation of the restaurant and outdoor dining area at the Project site has not had an adverse impact on the surrounding neighborhood. Evidence presented did raise some concerns regarding the Applicant's failure to comply with the conditions of approval and its untimeliness in correcting those violations. The Planning Commission's intent is that by providing its approval for the Project as conditioned herein, the Applicant or its successor (hereinafter "Applicant") will undertake operational and management practices to curb excessive levels of occupancy, noise and utilization of street parking by its patrons. As conditioned by this Resolution, the Planning Commission finds that procedures have been implemented to remedy any previous violations of the conditions of the C.U.P. or D.P.R. The Planning Commission further finds that with the imposition of these additional conditions it can continue to make each of the findings set forth in Resolution Nos. 1156, 1232 and 1285 in an affirmative manner and hereby adopts those findings and renews the C.U.P. and D.P.R. through and including March 24, 2005, subject to all conditions set forth in Section 6 below.

Section 6. Based on the foregoing, the Planning Commission hereby renews the C.U.P. and D.P.R. (the "Permits") through and including March 24, 2005, subject to the following conditions:

1. This C.U.P. and D.P.R. (collectively the "Permits") are hereby extended through and including March 24, 2005.
2. Except as authorized by this resolution, the Project shall comply with all applicable provisions of the Beverly Hills Municipal Code, including but not limited to the City's zoning and building codes.
3. Except as otherwise modified by Resolution Nos. 1156, 1232 and 1285, the Project shall substantially comply with the plans submitted by the applicant for the Planning Commission meeting of June 17, 2004.

Parking Conditions

4. Valet parking shall be provided free of charge to hotel guests, non-hotel guests and all restaurant patrons. [Resolution No. 1156.]
5. Free parking shall be provided to hotel employees and restaurant patrons at all times. [Resolution No. 1156 as modified by Resolution No. 1340.]
6. The applicant shall submit evidence satisfactory to the Director of Community Development attesting to the availability of sufficient parking to meet the parking needs for the hotel and restaurant, if requested by the Director of Community Development. All leases for off-site parking shall be in writing and shall require the lessor to provide at least 30-days advance written notice to the City before such lease may be amended or terminated. The C.U.P. and all rights granted hereunder shall terminate if the applicant does not maintain parking leases

for sufficient parking to satisfy the parking demand for the Project unless comparable alternative parking is provided to the satisfaction of the Director of Community Development prior to the termination of the off-site parking lease(s). If the C.U.P. is terminated pursuant to this condition, the Applicant shall immediately cease operation of the restaurant as a dining facility open to the public, including both the bar and dining area, and the open air dining area, including the pool side lounge area. [Resolution No. 1156 as modified by Resolution No. 1340.]

7. All conditions of the valet parking permit shall be incorporated as conditions of approval of this C.U.P. and D.P.R. [Resolution No. 1156.]
8. The hotel management shall require hotel and restaurant staff to advise all patrons of the restaurant of the hotel's restaurant reservation policy and of the availability of free valet parking for restaurant patrons. The Hotel web site shall also clearly advertise the restaurant reservation policy and the availability of free valet parking on both the web site homepage and the dining page for patrons of the restaurant. [Resolution No. 1232 as modified by Resolution No. 1340.]
9. The Applicant shall install and maintain at all times signage, satisfactory in form and quantity to the Director of Community Development, advertising the availability of free valet parking for patrons of the restaurant. The signs shall be installed at the main driveway of the hotel on Olympic Boulevard, in the parkway south of the main entrance driveway on Canon Drive, and at such other locations as the Director shall reasonably deem necessary. [Resolution No. 1232 as modified by Resolution No. 1340.]

10. The Applicant shall submit a parking management plan to the Directors of Community Development and Transportation for review and approval. The parking management plan shall incorporate all conditions of approval recommended by the Traffic and Parking Commission, including but not limited to the following: (1) availability of the two new parking facilities at 1150 and 1125 S. Beverly Drive, (2) number of valet operators, and (3) the valet return location in the alley behind the Project site. The parking management plan shall include lease agreements for these two parking locations. [Resolution No. 1232 as modified by Resolution No. 1340.]
11. After 10:00 p.m. daily, the valet return shall be located in the alley shall, subject to approval by the Department of Transportation or his designee. [Resolution No. 1232.]
12. After 10:00 p.m. daily, all taxi pick-up and drop-off activity shall be limited to the alley, subject to approval by the Director of Transportation or his designee. [Resolution No. 1285.]
13. To prevent vehicles from blocking the alley, the conditions of approval placed on the valet permit require no more than two vehicles to queue in the alley at one time, and prohibit valet vehicle staging in the alley. The hotel shall instruct patrons to wait in the designated waiting area in the hotel near the exit door until their car arrives. If a patron does not claim the vehicle upon return, the valet attendant shall be required to return the vehicle to the parking garage. [Resolution No. 1232.]
14. The Applicant shall maintain at all times the additional lighting in the alley where the valet return is designated as required by Resolution No. 1232.
15. The Applicant shall prepare and implement a comprehensive loading management plan for the hotel, including the restaurant, satisfactory to the Directors of Community Development

and Transportation. The loading management plan shall include coordinated scheduling and advance authorization of deliveries to ensure that two vehicles do not arrive at the same time. The loading management plan shall also include procedures to minimize delivery times and presence of a loading manager at the loading area at all times when it is in use to ensure that trucks do not impede the flow of pedestrians or vehicular traffic in the alley. [Resolution No. 1340.]

Operational Restrictions – Public Restaurant/Open Air Dining Area

16. The hours of operation of the public restaurant and open air dining area, including the pool-side lounge area shall be as follows:
 - (a) Morning hours: The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall not receive patrons, including hotel guests, before 7:00 a.m. Monday through Friday, inclusive, and 9:00 a.m. on Saturday and Sunday.
 - (b) Evening hours: The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall not admit patrons, including hotel guests, after 11:00 p.m. Monday through Saturday, inclusive. The restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, shall close at 11:00 p.m. on Sunday nights. [Resolution No. 1156 and Resolution No. 1285.]
17. No banquets or similar private receptions which would allow the entire restaurant, including the bar and dining area, the open air dining area, and the pool-side lounge area, to be rented out for an event shall be permitted. [Resolution No. 1156.]

18. No catered events shall be permitted in the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, at any time. The on-site restaurant kitchen facilities shall be used to prepare all food for events in the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area. [Resolution No. 1285.]
19. The aggregate total of persons in the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area, and any meeting room(s), at any given time shall not exceed 143 persons (excluding staff). Notwithstanding the foregoing, nothing in this condition shall be construed to bar the hotel operator from requesting an amendment to the Zoning Code at a later date to permit a greater number of persons to use the pool side lounge area. [Resolution No. 1285.]
20. No live entertainment shall be allowed in the outdoor dining area and the pool side lounge area at any time. [Resolution No. 1156 as modified by Resolution No. 1340.]
21. Pre-recorded music may be played inside the restaurant during the hours of operation, provided the volume levels conform to the noise level standard and would not be audible beyond the property line of the premises. [Resolution No. 1340.]
22. The hotel management shall post signs satisfactory to the Director of Community Development in the restaurant, the outdoor seating area, the pool-side lounge area and any meeting rooms displaying the aggregate maximum occupancy limits imposed by this Resolution. [Resolution No. 1340.]

General Operational Conditions

23. Large-scale film, video and other commercial shoots (as defined in the Office of Community Services Film Permit Guidelines) at the hotel shall be limited to one per month up to an aggregate maximum of ten (10) such events per year subject to City's approval. [Resolution No. 1285.]
24. The Applicant shall implement a program to deal with restaurant patrons who display signs of intoxication. [Resolution No. 1285.]
25. The Applicant shall comply with any conditions imposed by the California Department of Alcoholic Beverage Control on the Project's ABC license, including any restrictions imposed on the sale, service or consumption of alcoholic beverages at the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area. All alcoholic beverage service shall cease at midnight Monday through Saturday and at 11:00 p.m. on Sundays. [Resolution No. 1285.]
26. All hotel contracts with persons or organizations who host events at the hotel shall include the conditions of approval set forth in the resolutions approving this CUP as a condition of such contracts. [Resolution No. 1285.]
27. The Applicant shall obtain a special events permit from the City Council for any event in the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area attended by an aggregate total in excess of 143 persons. Applications for a special events permit shall be submitted on the form provided by the City. [Resolution No. 1285.]

28. The hotel management shall designate specific hotel employees to coordinate community relations and to act as the liaisons with nearby residents to respond to any disturbances to the neighboring residents in a prompt manner. At least one designated community liaison shall be present and available at the hotel premises 24 hours a day 7 days per week to respond to any disturbances. The names and telephone numbers of the designated contact persons shall be transmitted to the Director of Community Development. In addition, the Applicant shall post the name and telephone number of the contact person on call on the site in a location readily visible to the general public and approved by the Director of Community Development. [Resolution No. 1285.]
29. No equipment, furnishings or any other items, including, but not limited to heaters or propane cylinders and other outdoor dining equipment, shall be stored in the loading area or any other area on or to the rear of the main hotel building on the property. [Resolution No. 1340.]

Procedural Requirements.

30. Commencing on the effective date of this Resolution, the Applicant shall be required to:
- (a) Annually submit an affidavit to the Director of Community Development attesting to compliance with the conditions of approval set forth in this Resolution and the sufficiency of the on-site and off-site parking to satisfy the parking needs generated by the use. 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; and

(b) File any application for renewal of the C.U.P. and D.P.R. at least sixty (60) days prior to the expiration of this approval. A request to expand the hours of operation may be included as part of the renewal request. [Resolution No. 1156 and Resolution No. 1340.]

31. This C.U.P. and D.P.R. (collectively the "Permit") shall expire on March 24, 2005. Upon application by the Applicant at least 60 days prior to the expiration date of March 24, 2005, the City may extend the Permit for additional one-year terms if the reviewing authority determines that the restaurant, including the bar and dining area, and the open air dining area, including the pool-side lounge area is operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, is abiding by the conditions imposed by the Planning Commission, and is not creating an adverse impact on the surrounding area. The annual renewal hearing shall be conducted by the Planning Commission. The Planning Commission may, in its sole discretion, delegate the annual renewal hearing for any given year to the Director of Community Development (the "Director"), and the Director shall conduct the review for that year. All subsequent renewal

hearings shall be conducted by the Planning Commission unless they are expressly delegated by the Commission to the Director.

For any review delegated to the Director, the Director may extend the Permit if the Director determines that the restaurant is operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, is abiding by the conditions imposed by the Planning Commission, and is 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 the Planning Commission or the Director does not extend the Permit, then the Permit shall expire and all rights possessed by the applicant under the Permit shall be terminated. Provided, however, that if the Applicant files an application for an extension, any existing Permit shall be extended until the City takes final action on the application.

Any application for an extension of the Permit shall be subject to the application fees established by resolution of the City Council. In considering any application for an extension of the Permit, 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. [Resolution No. 1285.]

Compliance

32. The Applicant shall deposit with the City ten thousand dollar (\$10,000) cash deposit to ensure compliance with the conditions of this resolution. The deposit shall be maintained throughout the life of the CUP unless the Planning Commission determines otherwise. In the event that three or more such violations occur and the Applicant fails to cure, if applicable, such violations within a reasonable time, the City may: (a) retain the deposit to cover the costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten (10) days of the notice; and (c) suspend the CUP until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. 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 immediate commencement of suspension proceedings, and the requirement to deposit an additional \$10,000, pursuant to the procedure set forth above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited.

The requirements of this paragraph are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a

violation of the conditions of this resolution or the Beverly Hills Municipal Code.
[Resolution No. 1285.]

33. If in any 90-day period the Applicant has two (2) violations of any of the conditions set forth hereinafter, the Director of Community Development shall immediately schedule a hearing before the Planning Commission to review this C.U.P and D.P.R. Such proceedings shall be conducted in accordance with the provisions of Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code. For the purposes of this Condition No. 33, violations of any of the following conditions shall constitute grounds for reviewing the C.U.P. and D.P.R. and may serve as grounds to revoke the same: Conditions No. 4, 5, 8, 9, 16, 19, 20, 22, 23, 25 and 28.

Standard Conditions

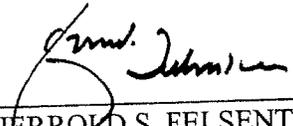
34. Within three (3) working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.
35. 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 the C.U.P. and D.P.R. 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 C.U.P. and D.P.R. **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 C.U.P. and D.P.R..

Section 7. If this Resolution is invalidated for any reason, all provisions of the Resolutions, as originally approved, shall remain in full force and effect.

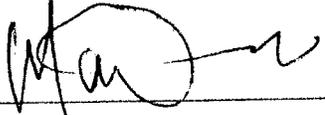
Section 8. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: August 12, 2004



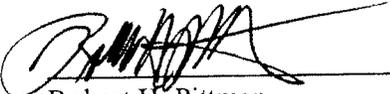
JERROLD S. FELSETHAL
Chairman of the Planning Commission of
the City of Beverly Hills

ATTEST:



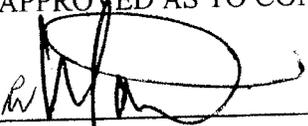
Secretary

APPROVED AS TO FORM:



Robert H. Pittman
Assistant City Attorney

APPROVED AS TO CONTENT:



Mahdi Aluzri
Director of Community Development



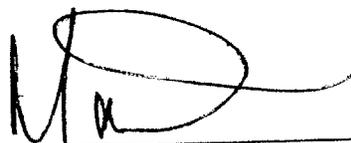
DAVID GUSTAVSON
Director of Transportation & Engineering

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

I, MAHDI ALUZRI, Secretary of the Planning Commission and Director of Planning and 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. 1340 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on August 12, 2004, 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 Melamed, Krasne, Marks, and Reims.

NOES: Chairman Felsenthal.



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

RESOLUTION NO. 1285

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS TEMPORARILY EXTENDING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AND A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AT 9400 OLYMPIC BOULEVARD (AVALON HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On January 24, 2001 the Planning Commission adopted Resolution No. 1156 issuing a Conditional Use Permit (the "C.U.P.") and Development Plan Review Permit ("D.P.R.") to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9400 Olympic Boulevard (Avalon Hotel) (hereafter the "Project"). On June 13, 2002, the Planning Commission adopted Resolution No. 1232 extending the CUP and DPR for an additional year. The Planning Commission's decision was subject to various conditions to minimize impacts of the Project on neighboring residential properties.

Section 2. Condition No. 12 of Resolution No. 1232 states that the C.U.P. and the D.P.R. approval shall expire on January 24, 2002. Any application for renewal of the C.U.P. and D.P.R. shall be reviewed by the Director of Planning and Community Development (the "Director") prior to the expiration of these approvals. Resolution No. 1232 further authorized the Director, in his discretion, to refer the application for renewal to the Planning Commission.

Kate Bartolo, of the KOR Group, on behalf of Honeymoon Real Estate, L.P., owner and operator of the Avalon Hotel, Inc. (hereafter the "Applicant"), timely filed renewal applications for the C.U.P. to continue the operation of a public restaurant within a nonconforming hotel and the D.P.R. to allow open air dining at the Project. The Director has referred both applications to the Planning Commission for review.

Section 3. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or to the environment that would cause the Project to significantly impact the environment. Therefore, the original negative declaration and mitigation measures imposed represent the independent judgment of the City and there is no substantial evidence that the approval of the Project may have any significant environmental impact and no further environmental review is required. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 4. On June 26, 2003, the Planning Commission held duly noticed public hearing to consider the C.U.P. and D.P.R. renewal applications. The hearing was continued to July 23, 2003, in order to obtain additional information and to resolve certain outstanding issues with respect to compliance with the conditions of approval. Additional time is needed to resolve these issues.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

5.1. The operation of the restaurant and outdoor dining at the Project shall be temporarily extended to allow the restaurant to remain open to the public through and including September 24, 2003, or until such time as the Planning Commission reaches a final decision on the C.U.P. and D.P.R. renewal applications, whichever occurs earlier.

5.2. Except as specifically modified by this Resolution, all other conditions of Resolution No. 1156 and Resolution No. 1232 shall remain in full force and effect.

Section 6. Based on the foregoing, the Planning Commission hereby extends the C.U.P. and D.P.R. (the "Permits") through and including September 24, 2003, subject to all conditions set forth in Resolution Nos. 1156 and 1232, except as modified below:

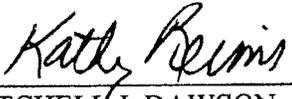
1. This C.U.P. and D.P.R. (collectively the "Permits") shall expire on the earlier of (i) September 24, 2003, or (ii) the date the Planning Commission makes a final decision on the C.U.P. and D.P.R. renewal applications and all rights granted by these Permits shall terminate at that time. Unless the Permits are renewed by the Planning Commission as provided in Resolution No. 1232, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area, and the Applicant shall have no further right to renewal of the Permits.

Section 7. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in the Resolution Nos. 1156 and 1232, and all provisions of the Beverly Hills Municipal Code.

Section 8. If this Resolution is invalidated for any reason, all provisions of the Resolutions, as originally approved, shall remain in full force and effect.

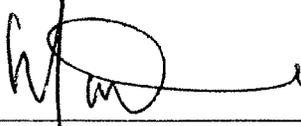
Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: JULY 23, 2003

 for

MITCHELL J. DAWSON
Chairman of the Planning Commission of
the City of Beverly Hills

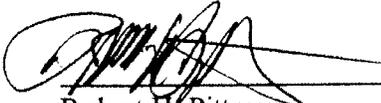
ATTEST:



Secretary

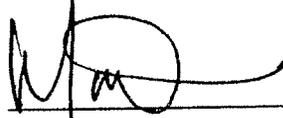
- Signatures continue -

Approved as to form:

A handwritten signature in black ink, appearing to read 'R. Pittman', written over a horizontal line.

Robert H. Pittman
Assistant City Attorney

Approved as to content:

A handwritten signature in black ink, appearing to read 'Mahdi Aluzri', written over a horizontal line.

Mahdi Aluzri
Director of Planning & Community
Development

AGREEMENT BETWEEN CITY OF BEVERLY HILLS AND
BEVERLY HILLS COMMUNITY THEATRE FOR
COMMUNITY ASSISTANCE FUNDS

THIS AGREEMENT is made and entered into in the City of Beverly Hills by and between the City of Beverly Hills, a municipal corporation ("City"), and Beverly Hills Community Theatre, a non-profit corporation ("Recipient").

RECITALS

WHEREAS, City desires to fund programs and services that benefit the residents of the City of Beverly Hills and programs which represent the City's commitment to regional social and human service efforts.

WHEREAS, City desires to provide community assistance funds for the fiscal year 2003-2004 to continue to support the operation within the City of a community theater in Beverly Hills, a valuable human service entity in our community.

WHEREAS, Recipient is a non-profit corporation that provides opportunities for all community members to **attend/participate** in live plays ("Project"). **Deb, did you confirm that they only attend?**

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, it is agreed as follows:

Section 1. Fund Authorization.

A. City authorizes the sum of Four Thousand and no/100ths Dollars (\$4,000) to be paid to Recipient for the fiscal year 2003-2004. Payment shall be made to Recipient in the amount of One Thousand and no/100ths Dollars (\$1,000) upon execution of this Agreement. Three additional payments of One Thousand and no/100ths Dollars (\$1,000) each will be paid on October 1, 2003, January 1, 2004 and April 1, 2004, if Recipient complies with the terms of this Agreement.

B. At City's option, the City Manager may authorize in writing payment to Recipient of a sum not to exceed Four Thousand and no/100ths Dollars (\$4,000) to be paid to Recipient for fiscal year 2004-2005. If authorized by the City Manager and if Recipient complies with the terms of this Agreement, City shall make four payments to Recipient of One Thousand and no/100ths Dollars (\$1,000) each to be paid on July 1, 2004, October 1, 2004, January 1, 2005 and April 1, 2005.

Section 2. Use of Funds. Recipient shall use the community assistance funds to present theatrical productions within the City of Beverly Hills.

Section 3. Reports.

A. Recipient shall furnish comprehensive quarterly reports to the Human Rights Commission/Office of Human Relations on the form provided by City as to the progress of the Project, including an accounting of specific Project activities, changes to the Project, and the benefit to residents, visitors and employees of City. The first report shall be furnished to the

Human Rights Commission/Office of Human Relations by October 1, 2003. Additional reports shall be furnished on January 1, April 1, and July 1, 2004.

B. If City authorizes payment to Recipient for the fiscal year 2004-2005, Recipient shall furnish comprehensive quarterly progress reports to the Human Relations Commission/Office of Human Relations as required in paragraph (A) of this section. The reports shall be furnished to the Human Relations Commission/Office of Human Relations on October 1, 2004, January 1, April 1, and July 1, 2005.

Section 4. Assignments. This Agreement shall not be assigned by Recipient without the written consent of City.

Section 5. Independent Contractor Relationship. At all times during the term of this Agreement, Recipient shall be an independent contractor and Recipient, its officers, employees and agents shall not be employees of City.

Section 6. Termination. The term of this Agreement shall be twelve (12) months commencing the date and year this Agreement is executed, unless terminated earlier or extended as provided herein. City or Recipient may terminate this Agreement without cause upon thirty (30) days written notice.

EXECUTED this _____ day of _____, 2003, in the City of Beverly Hills, California.

CITY OF BEVERLY HILLS
a municipal corporation

THOMAS S. LEVYN
Mayor of the City of
Beverly Hills, California

ATTEST:

_____(SEAL)
NINA WEBSTER
City Clerk

[Signatures continue]

BEVERLY HILLS COMMUNITY THEATRE,
A California non-profit corporation

LOU MILKOWSKI
Treasurer

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MARK SCOTT
City Manager

ANTON DAHLERBRUCH
Deputy City Manager/Community

MARY O'GORMAN
Director of Human Relations

DONALD J. OBLANDER
Chief Financial Officer

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

I, MAHDI ALUZRI, Secretary of the Planning Commission and Director of Planning and 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.1285 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on July 23, 2003, 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: Commissioner Krasne, Marks, Reims, Felsenthal and Chairman Dawson.

NOES: None.

ABSENT: None.



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

RESOLUTION NO. 1285 A

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS TEMPORARILY EXTENDING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AND A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AT 9400 OLYMPIC BOULEVARD (AVALON HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES
HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On January 24, 2001 the Planning Commission adopted Resolution No. 1156 issuing a Conditional Use Permit (the "C.U.P.") and Development Plan Review Permit ("D.P.R.") to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9400 Olympic Boulevard (Avalon Hotel) (hereafter the "Project"). On June 13, 2002, the Planning Commission adopted Resolution No. 1232 extending the CUP and DPR for an additional year. The Planning Commission's decision was subject to various conditions to minimize impacts of the Project on neighboring residential properties.

Section 2. Condition No. 12 of Resolution No. 1232 states that the C.U.P. and the D.P.R. approval shall expire on January 24, 2002. Any application for renewal of the C.U.P. and D.P.R. shall be reviewed by the Director of Planning and Community Development (the "Director") prior to the expiration of these approvals. Resolution No. 1232 further authorized the Director, in his discretion, to refer the application for renewal to the Planning Commission.

Kate Bartolo, of the KOR Group, on behalf of Honeymoon Real Estate, L.P., owner and operator of the Avalon Hotel, Inc. (hereafter the "Applicant"), timely filed renewal applications for the C.U.P. to continue the operation of a public restaurant within a nonconforming hotel and the D.P.R. to allow open air dining at the Project. The Director has referred both applications to the Planning Commission for review.

Section 3. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or to the environment that would cause the Project to significantly impact the environment. Therefore, the original negative declaration and mitigation measures imposed represent the independent judgment of the City and there is no substantial evidence that the approval of the Project may have any significant environmental impact and no further environmental review is required. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 4. On June 26, 2003, the Planning Commission held duly noticed public hearing to consider the C.U.P. and D.P.R. renewal applications. The hearing was continued to July 23, 2003, in order to obtain additional information and to resolve certain outstanding issues with respect to compliance with the conditions of approval. Additional time is needed to resolve these issues.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

5.1. The operation of the restaurant and outdoor dining at the Project shall be temporarily extended to allow the restaurant to remain open to the public through and including September 24, 2003, or until such time as the Planning Commission reaches a final decision on the C.U.P. and D.P.R. renewal applications, whichever occurs earlier.

5.2. Except as specifically modified by this Resolution, all other conditions of Resolution No. 1156 and Resolution No. 1232 shall remain in full force and effect.

Section 6. Based on the foregoing, the Planning Commission hereby extends the C.U.P. and D.P.R. (the "Permits") through and including September 24, 2003, subject to all conditions set forth in Resolution Nos. 1156 and 1232, except as modified below:

1. This C.U.P. and D.P.R. (collectively the "Permits") shall expire on the earlier of (i) September 24, 2003, or (ii) the date the Planning Commission makes a final decision on the C.U.P. and D.P.R. renewal applications and all rights granted by these Permits shall terminate at that time. Unless the Permits are renewed by the Planning Commission as provided in Resolution No. 1232, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area, and the Applicant shall have no further right to renewal of the Permits.

Section 7. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in the Resolution Nos. 1156 and 1232, and all provisions of the Beverly Hills Municipal Code.

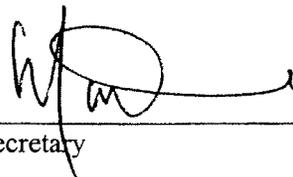
Section 8. If this Resolution is invalidated for any reason, all provisions of the Resolutions, as originally approved, shall remain in full force and effect.

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

Adopted: JULY 23, 2003


for
MITCHELL J. DAWSON
Chairman of the Planning Commission of
the City of Beverly Hills

ATTEST:



Secretary

- Signatures continue -

Approved as to form:



Robert H. Pittman
Assistant City Attorney

Approved as to content:



Mahdi Aluzri
Director of Planning & Community
Development

RESOLUTION NO. 1232

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS EXTENDING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AND A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AT 9400 OLYMPIC BOULEVARD (AVALON HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On January 24, 2001 the Planning Commission approved Resolution No. 1156 issuing a Conditional Use Permit (the "C.U.P.") and Development Plan Review Permit ("D.P.R.") to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9400 Olympic Boulevard (Avalon Hotel) (hereafter the "Project"). The Planning Commission's decision was subject to 16 conditions to minimize impacts of the Project on neighboring residential properties.

Section 2. Condition No. 8 of Resolution No. 1156 states that the C.U.P. and the D.P.R. approval shall expire one year after the date of adoption of the Resolution. Any application for renewal of the C.U.P. and D.P.R. shall be filed at least sixty days prior to the expiration of these approvals. The expiration date of the existing permit approvals is January 24, 2002.

Jim Ries, of the Craig Lawson and Co., LLC, on behalf of Honeymoon Real Estate, L.P., owner and operator of the Avalon Hotel, Inc. (hereafter the "Applicant"), timely filed renewal applications for the C.U.P. to continue the operation of a public restaurant within a nonconforming hotel and the D.P.R. to allow open air dining at the Project.

Section 3. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or to the environment that would cause the Project to significantly impact the environment. Therefore, the original negative declaration and mitigation measures imposed represent the independent judgment of the City and there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 4. On January 23, 2002, February 27, 2002, April 24, 2002, and June 13, 2002, the Planning Commission held

duly noticed public hearings to consider the C.U.P. and D.P.R. renewal applications.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines that, as conditioned under Resolution No. 1156, the operation of the restaurant and outdoor dining area at the Project site has not had an adverse impact on the surrounding neighborhood. The Planning Commission further finds that there are no outstanding violations of the conditions of the C.U.P. or D.P.R. and not outstanding violations of the Beverly Hills Municipal Code against the Project. The Planning Commission further finds that it can continue to make each of the findings set forth in Resolution No. 1156 in an affirmative manner and hereby adopts those findings and renews the C.U.P. and D.P.R. for an additional one year period, subject to all conditions set forth in said Resolution No. 1156 except as modified in Section 6 below.

Section 6. Based on the foregoing, the Planning Commission hereby extends the C.U.P. and D.P.R. (the "Permits") through and including January 24, 2003, subject to all conditions set forth in Resolution No. 1156, except as modified below:

1. Condition No. 8 of Resolution No. 1156 is hereby deleted.

2. Condition No. 10 of Resolution No. 1156 is hereby deleted and replaced with the following:

"10. The seating configuration of the restaurant and bar, including both indoor and outdoor seating, shall substantially conform to the seating plan dated June 5, 2002, and on file with the Department of Planning and Community Development. A maximum of 99 seats, including both indoor and outdoor seating areas, shall be open to the general public. The location of the seats open to the general public may vary between the indoor and outdoor seating areas provided that the aggregate number of seats open to the general public at any given time does not exceed 99 seats."

3. Condition No. 13 of Resolution No. 1156 is hereby amended to read as follows:

"13. The bar and dining area (including the open air dining area) shall not seat members of the general public after 10:00 p.m. daily."

4. An additional two-sided sign advertising the availability of free valet parking and advising patrons of the Hotel's reservation policy shall be installed at the main driveway of the hotel on Olympic Boulevard. This sign shall be

in addition to the existing sign located in the parkway south of the main entrance driveway on Canon Drive.

5. The hotel shall advise all patrons of the restaurant of the hotel's reservation policy and of the availability of free valet parking. The Hotel web site shall also advertise of reservation policy and the availability of free valet parking.

6. A revised parking management plan shall be submitted for review indicating all conditions of approval recommended by the Traffic and Parking Commission including: availability of the two new parking facilities at 1150 and 1125 S. Beverly Drive, number of valet operators, and the valet return location in the alley behind the project site. The parking management plan shall include lease agreements for these two new parking locations.

7. The hours of operation of the valet return located in the alley shall be limited to 8:00 p.m. to midnight Thursday through Saturday, unless the Department of Transportation approves more extended hours.

8. The applicant shall comply with all conditions of approval placed on the valet permit.

9. Additional lighting shall be installed in the alley where the valet return is designated.

10. Prior to the issuance of building permits, the new exit door facing Canon Drive shall be reviewed and approved in accordance with the provisions of Article 30 of Chapter 3, Title 10 of the Beverly Hills Municipal Code.

11. To accommodate the increased occupancy, the restaurant shall provide additional plumbing fixtures (including, but not limited to, additional water closets) in accordance with the requirements of the Building Code. The office next to the existing toilets shall be converted to new toilet facilities.

12. This C.U.P. and D.P.R. (collectively the "Permit") shall be reviewed by the Director of Planning and Community Development on an annual basis for two years, commencing on the anniversary date of this renewal by the Planning Commission. Thereafter, this C.U.P. and D.P.R. shall be reviewed by the Director every three years as required by Section 10-3.1207(f) of the Beverly Hills Municipal Code. Upon application by the Applicant, the Director may extend the Permit if the Director determines that the restaurant is operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, is abiding by the conditions imposed by the Planning Commission, and is 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 37 of Chapter 3, Title 10 of the Beverly Hills Municipal Code.

At the discretion of the Director, any application for the extension of the Permit may be referred to the Planning Commission without a decision by the Director. In such case the Planning Commission shall hold a noticed public hearing and decide the matter.

If the Director of Planning or the Planning Commission does not extend the Permit, then the Permit shall expire and all rights possessed by the applicant under the Permit shall be terminated. Provided, however, that if the Applicant files an application for an extension, any existing Permit shall be extended until the City takes final action on the application.

Any application for an extension of the Permit shall be subject to the application fees established by resolution of the City Council. In considering any application for an extension of the Permit, the Director or the Planning Commission 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.

Section 7. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in the Resolution No. 1156, and all provisions of the Beverly Hills Municipal Code. A copy of Resolution No. 1156 is attached hereto as Exhibit "A" and incorporated herein by reference.

Section 8. If this Resolution is invalidated for any reason, all provisions of the Resolutions, as originally approved, shall remain in full force and effect.

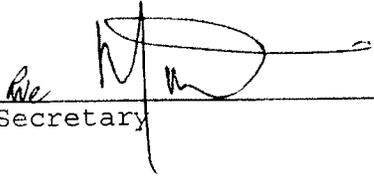
Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 6-13-02



JERROLD S. FELSENTHAL
Chairman of the Planning
Commission of the City of
Beverly Hills

ATTEST:


Secretary

Approved as to form:


Robert R. Pittman
Assistant City Attorney

Approved as to content:


Mahdi Aluzri
Director of Planning &
Community Development


ANTON DAHLERBRUCH
Director of Transportation

RESOLUTION NO. 1217

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS TEMPORARILY EXTENDING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AND A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AT 9400 OLYMPIC BOULEVARD (AVALON HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On January 24, 2001 the Planning Commission approved Resolution No. 1156 issuing a Conditional Use Permit (the "C.U.P.") and Development Plan Review Permit ("D.P.R.") to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9400 Olympic Boulevard (Avalon Hotel) (hereafter the "Project"). The Planning Commission's decision was subject to 16 conditions to minimize impacts of the Project on neighboring residential properties.

Section 2. Condition No. 8 of Resolution No. 1156 states that the C.U.P. and the D.P.R. approval shall expire one year after the date of adoption of the Resolution. Any application for renewal of the C.U.P. and D.P.R. shall be filed at least sixty days prior to the expiration of these approvals.

The expiration date of the existing C.U.P. and D.P.R. approval is January 24, 2002.

Jim Ries, of the Craig Lawson and Co., LLC, on behalf of Honeymoon Real Estate, L.P., owner and operator of the Avalon Hotel, Inc. (hereafter the "Applicant"), has timely filed renewal applications for the C.U.P. to continue the operation of a public restaurant within a nonconforming hotel and the D.P.R. to allow open air dining at the Project.

Section 3. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or to the environment that would cause the Project to significantly impact the environment. Therefore, the original negative declaration and mitigation measures imposed represent the independent judgment of the City and there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 4. On January 23, 2002, and February 27, 2002, the Planning Commission held duly noticed public hearings to consider the C.U.P. and D.P.R. renewal applications. The hearing was continued to February 27, 2002, in order to obtain more information related to parking utilization in the area.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

5.1. The operation of the restaurant and outdoor dining at the Project shall be permitted to be used for an additional sixty (60) days, or until such time as the Planning Commission reaches a final decision on the C.U.P. and D.P.R. renewal applications, whichever occurs earlier.

5.2. Except as specifically modified by this Resolution, all other conditions of Resolution No. 1156 shall remain in full force and effect.

Section 6. Based on the foregoing, the Planning Commission hereby extends the C.U.P. and D.P.R. (the "Permits") through and including April 24, 2002, subject to all conditions set forth in Resolution No. 1156, except as modified below:

1. Condition No. 8 of Resolution No. 1156 is hereby deleted.

2. Condition No. 13 of Resolution No. 1156 is hereby amended to read as follows:

"13. The bar and dining area (including the open air dining area) shall not seat members of the general public after 10:00 p.m. daily."

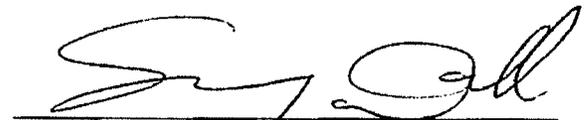
3. This C.U.P. and D.P.R. (collectively the "Permits") shall expire on the earlier of (i) April 24, 2002, or (ii) the date the Planning Commission makes a final decision on the C.U.P. and D.P.R. renewal applications and all rights granted by these Permits shall terminate at that time. Unless the Permits are renewed by the Planning Commission as provided in Resolution No. 1156, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area, and the Applicant shall have no further right to renewal of the Permits.

Section 7. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in the Resolution No. 1156, and all provisions of the Beverly Hills Municipal Code.

Section 8. If this Resolution is invalidated for any reason, all provisions of the Resolutions, as originally approved, shall remain in full force and effect.

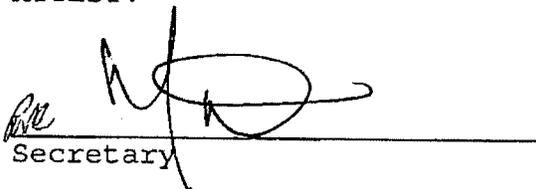
Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 2-27-02



STEPHEN P. WEBB
Chairman of the Planning
Commission of the City of
Beverly Hills

ATTEST:


Secretary

Approved as to form:


Robert H. Pittman
Assistant City Attorney

Approved as to content:


Mahdi Aluzri
Director of Planning &
Community Development

RESOLUTION NO. 1232

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS EXTENDING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AND A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AT 9400 OLYMPIC BOULEVARD (AVALON HOTEL)

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On January 24, 2001 the Planning Commission approved Resolution No. 1156 issuing a Conditional Use Permit (the "C.U.P.") and Development Plan Review Permit ("D.P.R.") to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9400 Olympic Boulevard (Avalon Hotel) (hereafter the "Project"). The Planning Commission's decision was subject to 16 conditions to minimize impacts of the Project on neighboring residential properties.

Section 2. Condition No. 8 of Resolution No. 1156 states that the C.U.P. and the D.P.R. approval shall expire one year after the date of adoption of the Resolution. Any application for renewal of the C.U.P. and D.P.R. shall be filed at least sixty days prior to the expiration of these approvals. The expiration date of the existing permit approvals is January 24, 2002.

Jim Ries, of the Craig Lawson and Co., LLC, on behalf of Honeymoon Real Estate, L.P., owner and operator of the Avalon Hotel, Inc. (hereafter the "Applicant"), timely filed renewal applications for the C.U.P. to continue the operation of a public restaurant within a nonconforming hotel and the D.P.R. to allow open air dining at the Project.

Section 3. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or to the environment that would cause the Project to significantly impact the environment. Therefore, the original negative declaration and mitigation measures imposed represent the independent judgment of the City and there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 4. On January 23, 2002, February 27, 2002, April 24, 2002, and June 13, 2002, the Planning Commission held

duly noticed public hearings to consider the C.U.P. and D.P.R. renewal applications.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines that, as conditioned under Resolution No. 1156, the operation of the restaurant and outdoor dining area at the Project site has not had an adverse impact on the surrounding neighborhood. The Planning Commission further finds that there are no outstanding violations of the conditions of the C.U.P. or D.P.R. and not outstanding violations of the Beverly Hills Municipal Code against the Project. The Planning Commission further finds that it can continue to make each of the findings set forth in Resolution No. 1156 in an affirmative manner and hereby adopts those findings and renews the C.U.P. and D.P.R. for an additional one year period, subject to all conditions set forth in said Resolution No. 1156 except as modified in Section 6 below.

Section 6. Based on the foregoing, the Planning Commission hereby extends the C.U.P. and D.P.R. (the "Permits") through and including January 24, 2003, subject to all conditions set forth in Resolution No. 1156, except as modified below:

1. Condition No. 8 of Resolution No. 1156 is hereby deleted.

2. Condition No. 10 of Resolution No. 1156 is hereby deleted and replaced with the following:

"10. The seating configuration of the restaurant and bar, including both indoor and outdoor seating, shall substantially conform to the seating plan dated June 5, 2002, and on file with the Department of Planning and Community Development. A maximum of 99 seats, including both indoor and outdoor seating areas, shall be open to the general public. The location of the seats open to the general public may vary between the indoor and outdoor seating areas provided that the aggregate number of seats open to the general public at any given time does not exceed 99 seats."

3. Condition No. 13 of Resolution No. 1156 is hereby amended to read as follows:

"13. The bar and dining area (including the open air dining area) shall not seat members of the general public after 10:00 p.m. daily."

4. An additional two-sided sign advertising the availability of free valet parking and advising patrons of the Hotel's reservation policy shall be installed at the main driveway of the hotel on Olympic Boulevard. This sign shall be

in addition to the existing sign located in the parkway south of the main entrance driveway on Canon Drive.

5. The hotel shall advise all patrons of the restaurant of the hotel's reservation policy and of the availability of free valet parking. The Hotel web site shall also advertise of reservation policy and the availability of free valet parking.

6. A revised parking management plan shall be submitted for review indicating all conditions of approval recommended by the Traffic and Parking Commission including: availability of the two new parking facilities at 1150 and 1125 S. Beverly Drive, number of valet operators, and the valet return location in the alley behind the project site. The parking management plan shall include lease agreements for these two new parking locations.

7. The hours of operation of the valet return located in the alley shall be limited to 8:00 p.m. to midnight Thursday through Saturday, unless the Department of Transportation approves more extended hours.

8. The applicant shall comply with all conditions of approval placed on the valet permit.

9. Additional lighting shall be installed in the alley where the valet return is designated.

10. Prior to the issuance of building permits, the new exit door facing Canon Drive shall be reviewed and approved in accordance with the provisions of Article 30 of Chapter 3, Title 10 of the Beverly Hills Municipal Code.

11. To accommodate the increased occupancy, the restaurant shall provide additional plumbing fixtures (including, but not limited to, additional water closets) in accordance with the requirements of the Building Code. The office next to the existing toilets shall be converted to new toilet facilities.

12. This C.U.P. and D.P.R. (collectively the "Permit") shall be reviewed by the Director of Planning and Community Development on an annual basis for two years, commencing on the anniversary date of this renewal by the Planning Commission. Thereafter, this C.U.P. and D.P.R. shall be reviewed by the Director every three years as required by Section 10-3.1207(f) of the Beverly Hills Municipal Code. Upon application by the Applicant, the Director may extend the Permit if the Director determines that the restaurant is operating in a manner substantially the same as described to the Planning Commission and approved by the Planning Commission, is abiding by the conditions imposed by the Planning Commission, and is 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 37 of Chapter 3, Title 10 of the Beverly Hills Municipal Code.

At the discretion of the Director, any application for the extension of the Permit may be referred to the Planning Commission without a decision by the Director. In such case the Planning Commission shall hold a noticed public hearing and decide the matter.

If the Director of Planning or the Planning Commission does not extend the Permit, then the Permit shall expire and all rights possessed by the applicant under the Permit shall be terminated. Provided, however, that if the Applicant files an application for an extension, any existing Permit shall be extended until the City takes final action on the application.

Any application for an extension of the Permit shall be subject to the application fees established by resolution of the City Council. In considering any application for an extension of the Permit, the Director or the Planning Commission may impose additional conditions of approval on the project to ensure that

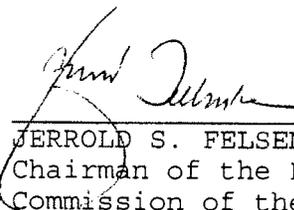
the Project does not adversely impact adjacent uses or create significant environmental impacts on the community within the meaning of the California Environmental Quality Act.

Section 7. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in the Resolution No. 1156, and all provisions of the Beverly Hills Municipal Code. A copy of Resolution No. 1156 is attached hereto as Exhibit "A" and incorporated herein by reference.

Section 8. If this Resolution is invalidated for any reason, all provisions of the Resolutions, as originally approved, shall remain in full force and effect.

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

Adopted: 6-13-02



JERROLD S. FELSENTHAL
Chairman of the Planning
Commission of the City of
Beverly Hills

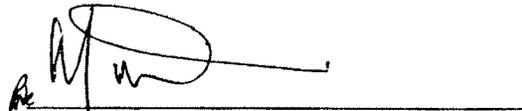
ATTEST:


Secretary

Approved as to form:


Robert R. Pittman
Assistant City Attorney

Approved as to content:


Mahdi Aluzri
Director of Planning &
Community Development


ANTON DAHLERBRUCH
Director of Transportation

EXHIBIT "A"

PLANNING COMMISSION
RESOLUTION NO. 1156

RESOLUTION 1156

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY ISSUING A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AND GRANTING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC FOR PROPERTY LOCATED AT 9400 OLYMPIC BOULEVARD AND DENYING REQUEST TO MODIFY RESOLUTION NO. 1067 REGARDING FREE VALET PARKING (THE AVALON HOTEL)

Section 1. Honeymoon Real Estate, L.P., on behalf of the Avalon Hotel (hereafter "Applicant"), has submitted an application for a Conditional Use Permit and Development Plan Review Permit to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9400 Olympic Boulevard (hereafter "Project"). The Applicant has also requested a modification to Resolution No. 1067, dated July 22, 1998, which requires free valet parking for hotel patrons and guests.

Title 10, Chapter 3, Article 12 of the Beverly Hills Municipal Code provides that a public restaurant may be permitted within a nonconforming hotel in a multiple-family residential zone if the Planning Commission issues a Conditional Use Permit (hereafter "C.U.P.") for the restaurant. Furthermore, the Municipal Code provides that open air dining may be permitted within a nonconforming hotel if the Planning Commission issues a

Development Plan Review Permit (hereafter "D.P.R.") to allow the open air dining.

Section 2. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 3. On November 15 and December 20, 2000, the Planning Commission held a duly noticed public hearing to consider the application. Evidence, both written and oral, was presented at said hearing.

Section 4. In considering the application for the C.U.P., the Planning Commission considered whether the restaurant will be detrimental to adjacent property or the public welfare or will have a substantial adverse impact on the use and enjoyment

of surrounding residential properties. As part of its determination, the Planning Commission considered whether the restaurant will be detrimental to adjacent property or the public welfare or will have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to:

- (1) the accumulation of garbage, trash, or other waste;
- (2) noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;
- (3) light and glare;
- (4) odors or noxious fumes;
- (5) parking demand created by the restaurant, including parking demand created by employees; or
- (6) traffic.

The Planning Commission also considered the following criteria:

- (a) Whether the hotel is located on a street identified as an "arterial" street or "collector" street in the City's General Plan;
- (b) Whether the dining and bar floor area of all restaurants and private dining rooms in the hotel exceeds the floor area of any dining and bar area that existed on or before November 1, 1995;

(c) Whether there would be any live entertainment performed;

(d) Whether banquets or similar private receptions or parties are to held at the restaurant;

(e) Whether patrons of the restaurant are to be seated after 11:00 p.m.; and

(f) Whether parking is provided free of charge to employees to ensure that employees do not park in the public right-of-way.

Section 5. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds as follows:

1. As conditioned, the restaurant will not be detrimental to adjacent property or the public welfare and will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties.

The proposed Project is consistent with the General Plan of the City. The General Plan encourages stability in the land use pattern of the City. The Project will allow a long standing non-conforming dining use to continue at the Project site.

As conditioned, the proposed Project will not create any significantly adverse traffic impacts, traffic safety

hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project, as conditioned, have a significant parking impact. The Applicant has requested a waiver of the thirty-two (32) parking spaces required by the restaurant use (one space is required for every 45 square feet of dining area). The hotel's parking is legally non-conforming, providing sixty (60) on-site parking spaces for 88 rooms in three separate buildings. Sufficient parking exists without the provision of the thirty-two (32) parking spaces. The Project is limited to seating for thirty-eight (38) persons indoors and twelve (12) persons outdoors and does not encroach into the public right-of-way. The provision of free valet parking at the site coupled with the requirement to provide additional patron parking in the evening and employee parking during the day, will minimize any cumulative parking impacts that may otherwise be generated by the expanded restaurant use.

In order to further mitigate any potential adverse traffic or parking impacts to neighboring residential properties, the approval of the Project is limited to a 12-month trial period. In addition, the Project is conditioned to limit restaurant hours open to the public to evening hours from 6:00 p.m. to 10 p.m.; to allow the restaurant to be open to the public during morning and lunch hours only if the Applicant is able to provide an employee parking management plan and at least eighteen

(18) free employee off-site parking spaces at the Holiday Inn Select, located at 1150 S. Beverly Drive in the City of Los Angeles; to limit the hours of the open air dining; and to prohibit banquets, receptions and other similar large events which rent the entire restaurant. Because of additional parking secured for employees, parking by employees is not anticipated to impact neighboring properties or otherwise impact traffic, as employees are provided parking by the hotel free of charge and the number of employees is not significantly increasing due to the opening of the restaurant to the public or the addition of the outdoor dining facility during the evening hours. In addition, the Applicant provided evidence that the Applicant has leased a minimum of thirty (30) additional off-street parking spaces on two properties along Beverly Drive across the alley from the hotel parking. This additional parking would be leased for a minimum of twelve months, and would be available in the evening hours.

As part of this application, Applicant has requested modification of Resolution No. 1067 which required that free daytime valet parking be provided to hotel patrons and their guests. Applicant has requested permission to charge \$3.00 per vehicle for all hotel patrons and their guests. As set forth in this Resolution, the requested modification to Resolution No. 1067 is denied; and the Project is conditioned to require the

Applicant to continue to provide free valet parking to hotel patrons and guests in order to mitigate any potential adverse traffic or parking impacts resulting from the Project.

Furthermore, due to the Project's location on a major arterial street, Olympic Boulevard, which can accommodate the potential increases in traffic flow from the expanded restaurant use, the Project, as conditioned, should not create any other significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards.

For these reasons, the Project, as conditioned, should not be detrimental to adjacent property or the public welfare or otherwise create substantial and adverse impacts in the surrounding residential neighborhoods.

3. The Project, as conditioned, will not significantly interfere with the use and enjoyment of residential properties in the vicinity for the additional reason that based on the ambient noise measurement of traffic along Olympic Boulevard and the fact that the outdoor dining area is completely enclosed by the hotel structure, no noise or privacy impacts are anticipated.

4. As conditioned, no garbage, trash or other waste from the Project will adversely impact neighboring properties. The Applicant is required to maintain the subject area in a clean and sanitary condition. The hotel will continue its present

procedures for the removal of trash in connection with the hotel's dining operations and no impacts are anticipated.

5. Due to the nature of the proposed Project, no significant light or glare from the Project will impact neighboring properties. The open air dining area is enclosed by the hotel structure and no lighting will be directed toward residential properties.

6. Due to the nature of the proposed Project, no odors or noxious fumes will result from the Project. Cooking will not be performed in the open air dining area. Approval of the Project will not alter the current venting of the kitchen and the Commission has received no evidence that the restaurant currently creates odors or noxious fumes.

7. The dining bar and floor area of all restaurants and private dining rooms in the hotel is not being expanded beyond that which was in place as of November 1, 1995. Therefore, the impacts from the proposed Project are further minimized.

Section 6. In considering the application for the Development Plan Review Permit, the Planning Commission considered the following issues:

1. Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;

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

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

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

5. Whether the nature, configuration, location, density, height and manner of operation of the proposed commercial development will significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

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

7. Whether the proposed plan will significantly and adversely affect neighboring properties due to:

- a. The accumulation of garbage, trash or other waste;
- b. Noise created by operation of the dining area or by employees or visitors entering or exiting the site;
- c. Light and glare;
- d. Odors or noxious fumes.

Section 7. Based upon the evidence presented, including the staff report and oral testimony, and for all of the reasons set forth in Section 6 above, the Planning Commission hereby finds:

1. The proposed Project is consistent with the General Plan of the City.

2. As conditioned, the proposed Project will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project have a significant parking impact.

3. As conditioned, the proposed Project will not adversely affect existing and anticipated development in the vicinity, will promote harmonious development of the area, and will not be detrimental to the public health, safety and welfare.

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

5. As conditioned, no garbage, trash or other waste from the Project will adversely impact neighboring properties.

6. As conditioned, any noise impact that will be created by the Project or by employees or visitors entering or exiting the Project will be minimized.

7. Due to the nature of the proposed Project, no significant light or glare from the Project will impact neighboring properties.

8. Due to the nature of the proposed Project, no odors or noxious fumes will result from the Project.

Section 8. Based upon the foregoing, the Planning Commission hereby approves a negative declaration for the Project, issues a C.U.P. to permit the operation of a public restaurant at the Project site and issues a D.P.R. for open air dining at the Project site, subject to the following conditions:

1. Except as authorized by this resolution, the project shall comply with the City's zoning and building codes.

2. Except as otherwise provided in this Resolution the project shall substantially comply with the plans submitted by the applicant for the Planning Commission meeting of December 20, 2000.

3. Valet parking shall be provided free of charge to hotel guests, non-hotel guests and all restaurant patrons.

4. Except as provided in this Paragraph 4 and Paragraph 6, below, of this Section 8, all employee parking shall be provided on-site and shall be free to all employees.

(a) In order for the restaurant to be open to the public at any time between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, at least eighteen (18) free employee off-site parking spaces shall be provided between the hours of 7:00 a.m. and 6:00 p.m. on weekdays. Said free employee off-site parking shall be situated at the Holiday Inn Select, located at 1150 S. Beverly Drive, in the City of Los Angeles. This Resolution shall not be effective until the applicant submits proof of a written lease for said eighteen (18) spaces at the Holiday Inn Select. The applicant shall also provide an employee parking management plan to the Director of Planning and Community Development within thirty (30) days of the effective date of this Resolution. In the event that said eighteen (18) free employee off-street parking spaces are no longer available at the Holiday Inn Select, and/or said lease is terminated for any reason, the restaurant shall not be open to the public at any time between the hours of 7:00 a.m. and 6:00 p.m., on weekdays, until such time as substitute free off-street parking has been provided to the satisfaction of the City's Director of Planning and Community Development and in accordance with said employee parking management plan.

(b) In order for the restaurant to be open to the public in the evening between the hours of 6:00 p.m. and 10:00 p.m., on weekdays and between the hours of 9:00 a.m. to 10:00 p.m. on weekends, at least thirty (30) free employee and/or patron off-site parking spaces shall be provided. Said free employee and/or patron off-site parking shall be situated at a nearby, off-street site located not more than five hundred (500) feet from the Project site. Said free employee and/or patron off-site parking shall be situated at a nearby, convenient off-street site located not more than five hundred (500) feet from the Project site. The Applicant has complied with this subsection (b) of Paragraph 4 of Section 8 by submitting evidence at the Planning Commission hearing that the Applicant has leased a minimum of thirty (30) additional off-street parking spaces on two properties along Beverly Drive across the alley from the hotel parking. In the event that said lease is terminated for any reason, the restaurant shall not be open to the public during any evening hours until such time as substitute free off-street parking has been provided to the satisfaction of the City.

5. All leases for off-site parking shall be for a minimum of twelve (12) months. Copies of all leases shall be provided to the City within fifteen (15) days of the effective date of this Resolution. In the event that new leases are subsequently entered into, the Applicant shall provide copies of

such new leases within ten (10) calendar days of their execution by all parties.

6. The hours of operation of the public restaurant and open air dining shall be as follows:

(a) Evening hours: The restaurant may be open to the public only between the hours of 6:00 p.m. and 10:00 p.m. daily. The open air dining area may be open to the public only between the hours of 6:00 p.m. and 10:00 p.m. daily. Provided that, if a minimum of thirty (30) off-street parking spaces are not provided in accordance with the lease identified in subsection (b) of Paragraph 4 of Section 8, the restaurant shall not be open to the public during any evening hours at any time unless and until such time as an alternative location of at least thirty (30) free off-street parking for employees are provided to the satisfaction of the City.

(b) Other hours: The restaurant may be open to the public between the hours of 7:00 a.m. to 6:00 p.m., inclusive, Monday through Friday, and 9:00 a.m. to 6:00 p.m., inclusive, Saturdays and Sundays, only if a minimum of eighteen (18) free employee off-site parking spaces are provided which are located at the Holiday Inn Select, located at 1150 S. Beverly Drive, in the City of Los Angeles, as required by Paragraph 4 of this Section 8. Unless such minimum eighteen (18) free off-site employee parking spaces are provided, the restaurant shall not be

open to the public at any time before 6:00 p.m. or after 10:00 p.m., seven days a week.

(c) Open air dining hours: Open air dining shall not be made available to hotel patrons, guests and/or members of the general public any earlier than 8:00 a.m., Monday through Friday. On Saturday and Sunday, open air dining shall not be made available to members of the public any earlier than 9:00 a.m., and no earlier than 8:00 a.m. for hotel patrons and guests. Open air dining shall not be made available to hotel patrons, guests and/or members of the general public after 10:00 p.m. seven days a week, and hotel patrons, guests and members of the general public shall not be seated in the open air dining area after 9:00 p.m. seven days a week.

7. No banquets or similar private receptions which would allow the entire restaurant to be rented out for an event shall be permitted.

8. The C.U.P. and the D.P.R. approval shall be granted for a maximum twelve (12) month period, and the C.U.P. and D.P.R. shall expire one year after the date of adoption of this Resolution. Unless the C.U.P. and D.P.R. are renewed or extended, or a new C.U.P. and D.P.R. are issued, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area. The Applicant shall have no right to renewal or extension of the C.U.P. or D.P.R. Any application

for renewal of the C.U.P. and D.P.R. shall be filed at least sixty days prior to the expiration of these approvals.

9. Upon the effective date of this Resolution, the Applicant shall be required to:

(a) Conduct monthly parking surveys after the restaurant is open to assess the adequacy of parking, which such surveys shall be submitted to the Director of Community Development not later than the tenth calendar day of the following month; and

(b) File any application for renewal of the C.U.P. and D.P.R. at least sixty (60) days prior to the expiration of this approval. A request to expand the hours of operation may be included as part of the renewal request.

10. The open air dining shall be limited to 6 (six) tables and 12 (twelve) chairs.

11. The tables and chairs shall be located in the patio area adjacent to the existing building as shown on the plans submitted to the Planning Commission and shall not at any time be permitted to encroach into any public right-of-way.

12. No live entertainment or amplified sound shall be allowed.

13. The restaurant (including the open air dining area) shall not seat members of the general public after 9:00 p.m. daily.

14. All conditions of the valet parking permit shall be incorporated as conditions of approval of this C.U.P. and D.P.R.

15. Within three (3) working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.

16. Within thirty (30) days after the adoption of this Resolution, the Applicant shall present to the City a signed covenant, signed by the Applicant and the property owner and satisfactory to the City Attorney, and in a form recordable by the Los Angeles County Recorder, accepting these conditions of approval.

This resolution shall be attached as an exhibit to the covenant.

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.

16. The conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the permits.

Section 9. The Applicant's request to modify Resolution No. 1067, dated July 22, 1998, regarding regulations for valet parking, is hereby denied. The Applicant shall continue to provide free valet parking to hotel patrons and guests to mitigate any potential adverse traffic or parking impacts from the Project.

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

Adopted: 1-24-01


STEPHEN P. WEBB
Chairman of the Planning
Commission of the City of
Beverly Hills, California

ATTEST:


Secretary *dy*

[Signatures continue]

Approved as to form:

Amy Greyson
Amy Greyson
Assistant City Attorney

Approved as to content:

Ruth Nadel
Ruth Nadel
Director of Planning &
Community Development

Attachment C

Parking Declarations

Declaration of parking utilization

I, Janne Clare, was General Manager of the Avalon Hotel for the following period of time: May 23, 2003 until August 2007. During this period of time the Avalon Hotel has used exclusively the following areas for parking and for each one I have included the number of parking spaces.

1. 418 Canon Dr, 24hrs a day, 5 spaces (1hdep), part of the hotel site
2. 9400 Olympic Blvd, 24 hr a day, 19 spaces(1hdep), 8 stack spaces, part of the hotel site
3. 412 S Beverly Dr, 24 hr a day, 26 spaces, 10 stack spaces, part of hotel site
4. 410 S Beverly Dr, 8pm-1am, 8 spaces, ongoing agreement
5. 420 S Beverly Dr, 7pm-7 am, 20 spaces, ongoing agreement
6. 424 S Beverly Dr, after 8pm, 11spaces, ongoing agreement
7. 1150 S Beverly Dr, after 6pm, 40 spaces, 24 hr a day, ongoing agreement

This use has been for each and every day of the week for all hours or when indicated for evening hours.

During the time period indicated **WE HAVE NEVER** had need to use any other parking services, lots or areas.



Janne Clare



Date

chamberlain

WEST HOLLYWOOD

Declaration of parking utilization

I, Scott Mills, was General Manager of the Avalon Hotel for the following period of time: October 2007 through September 2009. During this period of time the Avalon Hotel has used exclusively the following areas for parking and for each one I have included the number of parking spaces.

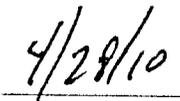
1. 418 Canon Dr, 24hrs a day, 5 spaces (1hdcp), part of the hotel site
2. 9400 Olympic Blvd, 24 hr a day, 19 spaces(1hdcp), 8 stack spaces, part of the hotel site
3. 412 S Beverly Dr, 24 hr a day, 26 spaces, 10 stack spaces, part of hotel site
4. 410 S Beverly Dr, 8pm-1am, 8 spaces, ongoing agreement
5. 420 S Beverly Dr, 7pm-7 am, 20 spaces, ongoing agreement
6. 424 S Beverly Dr, after 8pm, 11spaces, ongoing agreement
7. 1150 S Beverly Dr, after 6pm, 40 spaces, 24 hr a day, ongoing agreement

This use has been for each and every day of the week for all hours or when indicated for evening hours.

During the time period indicated **WE HAVE NEVER** had need to use any other parking services, lots or areas.



Scott A. Mills



Date

avalon hotel
BEVERLY HILLS

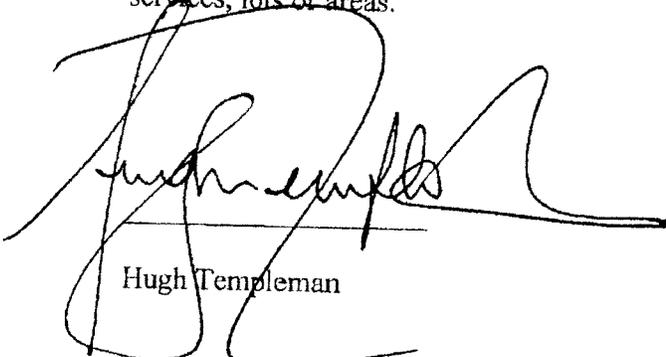
Declaration of parking utilization

I, Hugh Templeman, have been General Manager of the Avalon Hotel for the following period of time: September 26, 2009 till present. During this period of time the Avalon Hotel has used exclusively the following areas for parking and for each one I have included the number of parking spaces.

1. 418 Canon Dr, 24hrs a day, 5 spaces (1hdcp), part of the hotel site
2. 9400 Olympic Blvd, 24 hr a day, 19 spaces(1hdcp), 8 stack spaces, part of the hotel site
3. 412 S Beverly Dr, 24 hr a day, 26 spaces, 10 stack spaces, part of hotel site
4. 410 S Beverly Dr, 8pm-1am, 8 spaces, ongoing agreement
5. 420 S Beverly Dr, 7pm-7 am, 20 spaces, ongoing agreement
6. 424 S Beverly Dr, after 8pm, 11spaces, ongoing agreement
7. 1150 S Beverly Dr, after 6pm, 40 spaces, 24 hr a day, ongoing agreement

This use has been for each and every day of the week for all hours or when indicated for evening hours.

During the time period indicated **WE HAVE NEVER** had need to use any other parking services, lots or areas.


Hugh Templeman

Date

4/28/2010