



**Beverly Hills**

**Planning Division**

455 N. Rexford Drive Beverly Hills, CA 90210  
TEL. (310) 458-1140 FAX. (310) 858-5966

# Planning Commission Report

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**Meeting Date:** January 13, 2011

**Subject:** **9465 Wilshire Boulevard  
Equinox Fitness Club**

Request for a Conditional Use Permit to allow an approximately 37,000 square foot exercise club to be located on the ground floor of a building located within the Business Triangle, occupy more than 25 feet of street frontage within the Pedestrian Oriented Area, and utilize shared parking facilities in order to satisfy the parking requirements set forth in the Municipal Code.

PROJECT APPLICANT: Equinox Fitness Club represented by Murray Fischer

**Recommendation:** That the Planning Commission:

1. Conduct a public hearing and receive testimony on the project; and
  2. Adopt the attached resolution conditionally approving the requested Conditional Use Permit.
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## REPORT SUMMARY

The proposed project involves the establishment of an approximately 37,000 square foot exercise club within the building located at 9465 Wilshire Boulevard (Bank of America building). The proposed exercise club would occupy portions of the building's first, second, and third floors. The exercise club would be accessible from Wilshire Boulevard and North Beverly Drive, and would utilize a combination of dedicated on-site parking and shared on-site parking, all of which would be located in the interconnected subterranean parking garages located beneath the Bank of America building and William Morris building.

The proposed project was previously reviewed by the Planning Commission at its October 14, 2010 and November 23, 2010 meetings. The applicant and City staff have conducted additional research and analysis in response to the comments provided by the Commission, and this report outlines staff's analysis and required findings for project approval.

### Attachment(s):

- A. Staff Recommended Findings and Conditions of Approval
- B. Draft Planning Commission Resolution
- C. Public Notice
- D. Class 32 Categorical Exemption Report (Under Separate Cover)
- E. Parking Study
- F. Parking Management Plan
- G. Public Correspondence Supporting Project
- H. Staff Response to Letters of Opposition - Includes Letters of Opposition
- I. Architectural Plans (Under Separate Cover)

### Report Author and Contact Information:

Ryan Gohlich  
(310) 285-1194  
[rgohlich@beverlyhills.org](mailto:rgohlich@beverlyhills.org)

## BACKGROUND

File Date 8/13/2010  
Application Complete 9/12/2010  
Subdivision Deadline N/A  
Permit Streamlining 60 days from CEQA Determination

Applicant(s) Equinox Fitness Club  
Owner(s) Beverly Wilshire Owner, LP  
Representative(s) Murray Fischer

Prior PC Action Continued from the meetings of October 14, 2010 and November 23, 2010  
Prior Council Action None

## PROPERTY AND NEIGHBORHOOD SETTING

### Property Information

Address 9465 Wilshire Boulevard  
Legal Description Lot 8 and 9 in Block 10 of Beverly Tract  
Zoning District C-3  
General Plan General Commercial - Low Density  
Existing Land Use(s) General offices and Bank  
Lot Dimensions & Area 225' x 170' x 117' x 152' (trapezoidal) - 27,705 square feet  
Year Built 1961  
Historic Resource The property is not listed on any local, state or federal inventory  
Protected Trees/Grove None

### Adjacent Zoning and Land Uses

North C-3 General Commercial with E-O-PD Overlay Zone (William Morris)  
South (across Wilshire) C-3 General Commercial  
East C-3 General Commercial with Beverly Hills Garden Specific Plan (Montage)  
West C-3 General Commercial

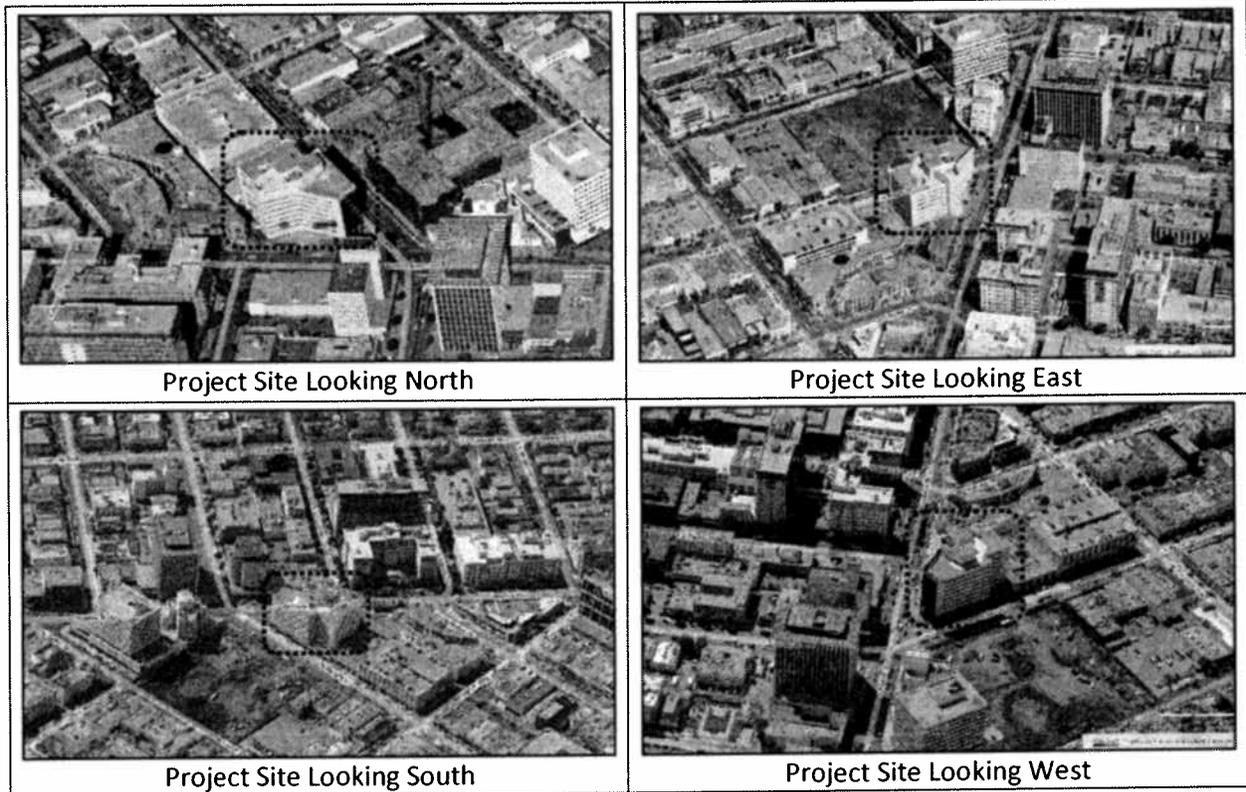
### Circulation and Parking

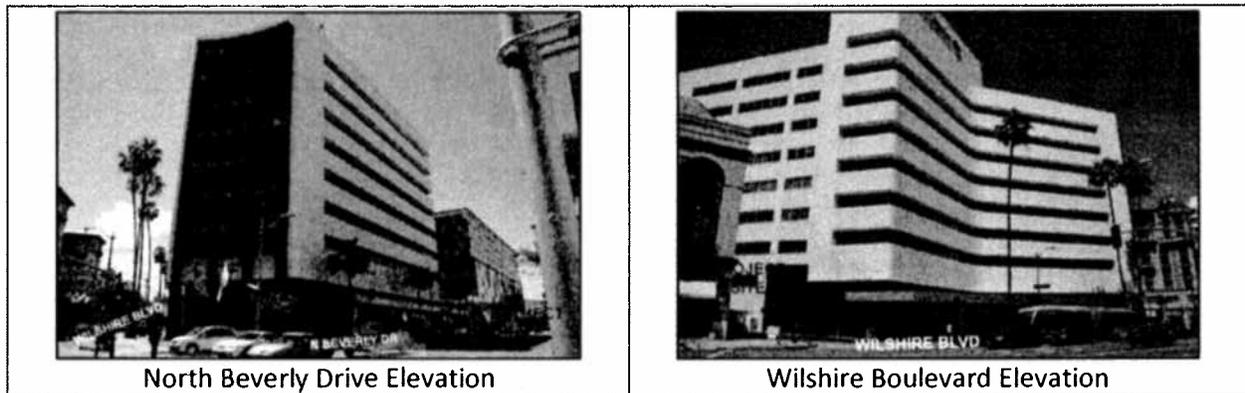
Adjacent Street(s) Wilshire Boulevard to the south and North Beverly Drive to the east  
Adjacent Alleys Alley at rear (east side) of property. One-way circulation - northbound  
Parkways & Sidewalks Eastern sidewalk/parkway along North Beverly Drive - 12' from face of curb to property line.  
Southern sidewalk/parkway along Wilshire Boulevard - 15' from face of curb to property line.  
Parking Restrictions The project site is surrounded by commercial uses. On-street parking is generally provided by 1-hour meters. Residential zones do not begin until the 200 blocks south of Wilshire Boulevard, and allow on-street parking by permit only.  
Nearest Intersection Wilshire Boulevard and North Beverly Drive  
Circulation Element Wilshire Boulevard and Beverly Drive serve as arterial streets  
Estimated Daily Trips Wilshire Boulevard carries approximately 44,400 daily trips, and Beverly Drive carries approximately 19,300 daily trips.

Neighborhood Character

The project site is located on the north side of Wilshire Boulevard, in what is identified as the City's Business Triangle, and falls within the Pedestrian Oriented Area of the city. The existing neighborhood character within the vicinity of the project consists of a variety of commercial developments, which are predominantly occupied by retail and general office uses. Although not shown in the aerial photos provided below, the project site is immediately south of the "William Morris" building, and immediately west of the Montage Hotel. Additionally, the project site is located immediately east of the "Two Rodeo" development, and northeast of the Beverly Wilshire Hotel.

Commercial buildings in the immediate vicinity of the project site tend to exceed the current height and density requirements, and were often approved through the use of variances during the 1960s and 1970s. The commercial building at the subject property was built in 1961, with a total of 8 stories and a maximum height of 125 feet. Retail uses typically dominate the ground floors of buildings located within the Business Triangle; however, many of the larger-scale commercial buildings located along Wilshire Boulevard and east of the project site contain minimal amounts of retail space, and instead provide financial and banking services. The larger-scale commercial buildings located along Wilshire Boulevard and west of the project site generally provide retail uses at the ground floor.





### **PRIOR REVIEW AND BACKGROUND**

The project was originally reviewed by the Planning Commission at its October 14, 2010 meeting. At that meeting the Commission requested additional analysis related to vehicle trip generation and parking management and usage, and also requested formal response to a letter of opposition from the public calling into question the City's environmental review of the project. Based on the comments provided by the Commission and public, additional information and analysis have been prepared as follows:

1. A full traffic study was prepared for the project, which analyzes seven signalized intersections and three residential street segments. The traffic study utilizes empirical data collected at the project site, as well as ITE trip generation information, and concludes that the project will not result in a significant traffic or parking impact under CEQA. The traffic study is included as part of the City's Class 32 Categorical Exemption documentation (Attachment D).
2. A detailed parking management plan has been prepared to provide for coordination of parking operations and proper assignment of parking spaces. Implementation of the parking management plan will allow for efficient use and operation of the parking garage as a shared parking facility. The parking management plan is provided as Attachment F.
3. In addition to the code-required noticing of the project, notice of the project has been provided to all tenants of the Bank of America building. An affidavit of noticing is provided in Attachment C.
4. Staff has provided responses to the letters of opposition submitted by N.O.P.E., and has prepared additional environmental analysis to support the issuance of a Categorical Exemption for the project. Responses to the letters of opposition are provided as Attachment H, and the environmental analysis is provided within the Categorical Exemption documents as Attachment D.

### **PROJECT DESCRIPTION**

The proposed project consists of tenant improvements for and the operation of an approximately 37,000 square foot exercise club within portions of the first, second, and third floors of the existing commercial building at the subject property. Floor area distribution of the exercise club would include 10,300 square feet on the first floor, 7,281 square feet on the second floor, and 19,082 square feet on

the third floor. As proposed, the breakdown of uses within the subject commercial building would include 36,663 square feet of exercise club uses, 5,651 square feet of bank uses, and 122,784 square feet of general office uses. This distribution includes a 1,660 square foot area that is currently open-to-below, but would be filled in to create additional space for the exercise club.

The subject property is trapezoidal in shape, and has street frontage along Wilshire Boulevard and North Beverly Drive. A subterranean parking garage is located beneath the subject property and is connected to the newly constructed "William Morris" parking garage. As a result of the two parking garages being connected, a total of 959 parking spaces are provided on site. Ingress and egress to the parking garage are provided along North Beverly Drive, at the rear alley of the property, and at Dayton Way.

#### Requested Permits

The applicant is seeking approval of a Conditional Use Permit to allow the proposed exercise club. The establishment of an exercise club within the City does not generally require a Conditional Use Permit; however, certain components of the proposed project trigger the need for a Conditional Use Permit. As a result, the applicant seeks approval of a Conditional Use Permit for the following purposes:

1. To allow an exercise club to be located on the ground floor of a building located within the Business Triangle;
2. To allow portions of the exercise areas to be visible from a public street or sidewalk (exercise areas at the third floor would potentially be visible);
3. To allow the exercise club to occupy more than 25 feet of ground-floor street frontage within the Pedestrian Oriented Area (approximately 90 feet of street frontage along North Beverly Drive and 33 feet of street frontage along Wilshire Boulevard); and
4. To allow the use of shared parking facilities in order to satisfy the parking requirements set forth in the Municipal Code. A total of 260 parking spaces would need to be approved as "shared" parking spaces in order for the proposed exercise club to meet code requirements with regard to parking.

#### **ZONING CODE<sup>1</sup> COMPLIANCE**

A detailed review of the proposed project's compliance with applicable zoning standards has been performed. The proposed project complies with all applicable codes, or is seeking through the requested permits, permission to deviate from certain code standards, in a manner that is consistent with the Zoning Ordinance.

Due to the complex nature of the building's original approval through the issuance of a variance, as well as parking garage connections with the "William Morris" project, additional information on parking and floor area requirements is provided as follows:

#### Parking

Parking for the existing Bank of America building is located in a subterranean garage below the building that provides 212 spaces. Additionally, the garage is connected to the William Morris parking garage at levels P1 and P3 of the Bank of America building. The purpose of connecting the two garages was to provide replacement parking for spaces belonging to the Bank of America building that were lost when

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<sup>1</sup> Available online at [http://www.sterlingcodifiers.com/codebook/index.php?book\\_id=466](http://www.sterlingcodifiers.com/codebook/index.php?book_id=466)

parking facilities located on what is now the William Morris site were demolished to make way for the William Morris project.

As a result, the Bank of America building controls a total of 474 spaces within the parking garage, but has access to a total of 959 parking spaces within the entire garage. Based on the total number of parking spaces provided on site and the applicability of shared parking provisions, all existing and proposed uses would comply with the City’s parking requirements, and a detailed breakdown of the required parking for the proposed project is as follows:

Use	Floor Area	Parking Rate	Code-Required Parking	Provided Parking
B of A Exercise Club	36,663 S.F.	1/100 S.F.	367 Spaces	33 Dedicated + 334 Shared
B of A General Office	122,784 S.F.	1/350 S.F.	351 Spaces	351 Dedicated
B of A Bank	5,651 S.F.	1/350 S.F.	16 Spaces	16 Dedicated
William Morris Office	141,322 S.F.	1/350 S.F.	403 Spaces	403 Dedicated
William Morris Retail	21,150 S.F.	1/350 S.F.	60 Spaces	60 Dedicated
William Morris Dining	7,295 S.F.	1/45 S.F.	162 Spaces	81 Dedicated + 81 Shared
<b>Totals</b>	<b>334,865 S.F.</b>	<b>N/A</b>	<b>1,359 Spaces</b>	<b>944 Dedicated + 415 Shared</b>

The above table indicates that a total of 1,359 parking spaces would be required to accommodate all uses within the two buildings, while the cumulative capacity of both parking garages is 959 spaces. However, per BPMC §10-3-1618 and §10-3-2730 up to fifty percent (50%) of the parking facilities of a use considered to be primarily a daytime use may be used to satisfy the parking facilities required for uses considered to have peak demand during early-morning or nighttime hours. As a result, up to 50% of the parking required for the office, bank, and retail uses shown above may be applied to the dining and exercise club uses. Therefore, 415 spaces  $((351+16+403+60)/2)$  may be applied to the dining and exercise uses. This provision was previously applied to 81 of the 162 spaces required for restaurant dining areas within the William Morris building, which leaves 334 spaces  $(415-81)$  available to be applied to the parking required for the exercise club. This means that 33 dedicated spaces  $(367-334)$  need to be provided for the exercise club, while 334 spaces can be shared (this utilizes the remainder of the entire 50% credit for shared parking). Therefore, if the shared parking arrangement is approved as proposed, the project would be in conformance with all code requirements.

Floor Area

The proposed project includes adding approximately 1,660 square feet of interior floor at the second floor level. The 1,660 square feet of floor area to be added and is currently within the building, but is open-to-below. In order for the applicant to add 1,660 square feet of floor area, the addition needs to be within the maximum floor area ratio originally approved for the building. The original approvals for the subject building set a maximum floor area ratio of 4.0 to 1, and used the entire block for the purpose of establishing the total site area. Presently, the properties occupying the block have been reconfigured and the William Morris project has been constructed, which renders the original 4.0 to 1 floor area ratio inaccurate. As a result, staff relied on approved square footages for the building, rather than rely on a floor area ratio calculation that is no longer accurate. The subject building was approved for up to 166,131 square feet, and with the added floor area the building would total 165,098 square feet. Therefore, the total floor area of the building, inclusive of the proposed additions, would be within the allowed floor area and compliant with the building’s original approvals.

### Agency Review<sup>2</sup>

The following City Departments conducted a preliminary project review as it relates to other technical provisions of local and state law:

- **TRANSPORTATION DIVISION**

The Transportation Division has reviewed the parking analysis submitted by the applicant, and is in agreement with the findings of the report that sufficient parking will be available to accommodate a shared parking arrangement. The Transportation Division has also reviewed the traffic study prepared in conjunction with the Class 32 Categorical Exemption and agrees that although the proposed project will generate additional vehicle trips beyond existing conditions, the project will not result in a substantial impact under the provisions of CEQA. The applicant's parking analysis is provided as Attachment E, and the complete traffic study is provided within the Class 32 Categorical Exemption as Attachment D.

- **CIVIL ENGINEERING**

The City's Engineering Department did not have any comments with regard to the proposed project.

### **GENERAL PLAN<sup>3</sup> POLICIES**

The General Plan includes several goals and policies. Some policies relevant to the Planning Commission's review of the project include:

- **Policy LU 2.8 Pedestrian-Active Streets.** Require that buildings in business districts be oriented to, and actively engage the street through design features such as build-to lines, articulated and modulated facades, ground floor transparency such as large windows, and the limitation of parking entries directly on the street. Parking ingress and egress should be accessed from alleys where feasible.
- **Policy LU 11.1 Preservation of Pedestrian-Oriented Retail Shopping Areas.** Preserve, protect and enhance the character of the pedestrian-oriented retail shopping areas, which are typified by a variety of retail shops with displays to attract and hold the interest of pedestrian shoppers, to ensure the continuity of the pedestrian experience.
- **Policy LU 11.3 Retail Street Frontages.** Require that development and street frontages in districts containing retail uses be designed and developed to promote pedestrian activity including: (a) location and orientation of the building to the sidewalk; (b) transparency of and direct access to the ground floor elevation from the sidewalk; (c) articulation of street-facing elevations to promote interest and sense of quality; (d) inclusion of uses and public spaces that extend interior functions to the sidewalk such as cafes and plazas; and (e) use of pedestrian oriented signage and lighting.

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<sup>2</sup> Recommended conditions of approval by other departments are provided in the Analysis section of this report.

<sup>3</sup> Available online at [http://www.beverlyhills.org/services/planning\\_division/general\\_plan/genplan.asp](http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp)

## ENVIRONMENTAL ASSESSMENT

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines<sup>4</sup>, and the environmental regulations of the City. The project qualifies for Categorical Exemptions pursuant to Sections 15301 (Class 1), 15302 (Class 2), and 15332 (Class 32) of the Guidelines for the reasons set forth in Attachments A and H.

## PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	10/8/2010	6 Days
Newspaper Notice	10 Days	10/4/2010	10/1/2010	13 Days
Mailed Notice (Owners & Residents - 300' Radius)	5 Days	10/9/2010	10/1/2010	13 Days
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	10/8/2010	6 Days

\*The project was originally noticed on 10/1/2010, and was continued to a date certain by the Planning Commission (1/13/2011). Because the project was continued to a date certain, additional notice of the 1/13/2011 meeting was not required. However, a courtesy notice was provided to all tenants of the Bank of America building.

### Applicant Outreach Efforts

The applicant has undertaken outreach efforts to meet with numerous residents, business owners, and employees of local businesses.

### Public Comment

The City has received several inquiries regarding the details of the proposed project, and has received 17 letters in support of the proposed project (Attachment G). Additionally, the City has received 5 letters of opposition from Todd Elliot, attorney on behalf of N.O.P.E. Opposition letters are provided in Attachment H. Staff has reviewed the submitted letters of opposition, and responses are also provided in Attachment H.

## ANALYSIS<sup>5</sup>

Project approval, conditional approval or denial is based upon specific findings for each discretionary application requested by the applicant. Draft findings are included with this report in Attachment A and may be used to guide the Planning Commission's deliberation of the subject project.

The required findings for the Conditional Use Permit generally relate to preservation of surrounding neighborhoods, preservation of the City's Pedestrian Oriented Areas, and an ability to show that the

<sup>4</sup> The CEQA Guidelines and Statute are available online at <http://ceres.ca.gov/ceqa/guidelines>

<sup>5</sup> The analysis provided in this section is based on draft findings prepared by the report author prior to the public hearing. The Planning Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to modify the findings. A change to the findings may result in a final action that is different from the staff recommended action in this report.

project will not result in any parking or traffic related impacts. Based on staff's analysis and the technical reports provided, the proposed project will not result in any adverse impacts. Specific discussion related to key issues associated with the project is provided below, and draft findings in support of the project are provided as Attachment A.

**Traffic.** The City prepared a traffic study to identify any net changes in vehicle trips, and to determine if the project would result in a significant environmental impact under the provisions of CEQA. Standard City policy is to assess trip generation rates and existing credits using ITE trip generation rates. However, due to the unique characteristics and configuration of the project site, the City utilized ITE trip generation rates for the general office and exercise club uses, but collected empirical trip generation data through a patron intercept survey to establish baseline trip generation credits for the existing bank use. Based on the information contained in the traffic study, the proposed project will result in a net increase of approximately 1,130 average daily vehicle trips; however, the increase in vehicle trips does not result in a significant environmental impact when compared against the City's recently adopted thresholds of significance. The City's Transportation Division has independently reviewed the traffic study prepared in conjunction with the project and is in agreement with the methodology used to determine vehicle trips and project impacts. The complete traffic study is provided in Attachment D for reference purposes.

**Parking.** A detailed breakdown of required, provided, and shared parking is provided above in the Zoning Code Compliance section of this report. In addition to the code analysis provided above, the applicant's traffic consultant prepared a detailed parking demand analysis and parking management plan to show that the project will not result in a shortfall of parking spaces. The parking analysis was prepared using parking data from existing Equinox facilities in the area, as well as parking usage data for the Bank of America Building. Peak parking demand for the exercise club as an individual use is anticipated to occur between the hours of 6:00 PM and 7:00 PM; however, the overall peak parking demand for the building as a whole is anticipated to occur between the hours of 5:00 PM and 6:00 PM. The parking demand study assumes access to 474 parking spaces, as this is the number of spaces directly controlled by the Bank of America building, although there is actually a total of 959 spaces within the shared parking garage. Even when assuming a total of 474 available parking spaces, the parking demand study demonstrates that peak hour demand for the entire building (5:00 PM - 6:00 PM) will yield a surplus of 65 parking spaces. In order to further validate the parking demand study, the City's traffic consultant conducted a parking accumulation study during two typical weekdays. The study confirmed that existing office and bank parking peaks during the afternoon, which avoids conflict with the peak parking demand of Equinox users between 6:00 PM and 7:00 PM. The City's Transportation Division has reviewed the parking demand analysis and is in agreement with the methodology used and the conclusions of the report. Based on this analysis, the proposed project will not result in any parking related impacts, as the existing parking facilities have the capacity to accommodate all proposed uses.

**Pedestrian Oriented Area.** The City's General Plan, as outlined above, provides specific policies for maintaining and improving the pedestrian experience within the City's commercial areas. The proposed use of an exercise club is not considered to be a pedestrian oriented use under the zoning code. Therefore, in addition to consideration regarding compliance with the General Plan, specific findings must be made in order to grant a Conditional Use Permit to allow the

exercise club to be located on the ground floor of the building and have exercise areas that are visible from the public right-of-way.

Although an exercise club is generally not considered to be pedestrian oriented, staff has reviewed the project against existing conditions at the subject property, as well as existing conditions within the vicinity of the project. The ground floor of the subject property is currently occupied entirely by bank uses, which are not considered to be pedestrian oriented. Therefore, the proposed use would not result in the loss of any existing pedestrian oriented uses. Further, the existing bank use does not provide any window displays, and provides no pedestrian access along North Beverly Drive. Contrary to the existing conditions, the proposed project includes window displays along North Beverly Drive, a pedestrian entrance along North Beverly Drive, and a small retail and juice bar component along North Beverly Drive. This reconfiguration of the ground floor uses and displays actually results in an improved pedestrian experience when compared to existing conditions. The portion of Wilshire Boulevard frontage to be occupied by the exercise club spans approximately 33 feet, and is proposed to have an opaque storefront. The current storefront along Wilshire Boulevard provides no pedestrian interaction, and installation of an opaque storefront would not result in the loss of any elements that would otherwise contribute to the pedestrian experience. The proposed plans indicate that third floor windows would be fitted with mechanical shades, which would screen views of any exercise areas. Due to the third floor location and installation of mechanical shades, any visibility would be minimal, and is not anticipated to degrade the pedestrian environment along Wilshire Boulevard.



Existing North Beverly Drive Frontage



Existing Wilshire Boulevard Frontage

#### Special Conditions of Approval

The recommendation in this report is for approval. In addition to standard conditions of approval, the following project-specific conditions are recommended (also see Attachment A):

- *“The Conditional Use Permit (CUP) shall expire fifteen (15) years from the date of the resolution and all rights granted by this CUP shall terminate at that time. Unless the CUP is renewed, or a new CUP*

*granted, the Applicant shall immediately cease operation of the fitness facility at this location. The Applicant shall have the right to submit requests for renewal of the CUP but shall have no right to renewal of the CUP. Any application for renewal of the CUP or a new CUP must be filed at least sixty (60) days prior to the expiration of these approvals. If the Planning Commission or City Council on appeal does not renew the CUP, the CUP shall expire and all rights possessed under the CUP shall be terminated. Provided, however, if the Applicant files a timely application for a renewal, any existing CUP shall be extended until the City takes final action on the application. Any application for a renewal of this CUP shall be subject to the application fee established by Resolution of the City Council. Upon expiration of the renewal and any future renewal, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any future renewals granted shall be governed by the provisions of the Beverly Hills Municipal Code.” (Special Condition 1)*

The purpose of the above condition is to afford the City the opportunity to review the CUP at a later date to determine whether the project is still in conformance with the goals and policies of the City at the time of review.

- *Six (6) months after the opening of the exercise club, the Applicant shall provide to the Director of Community Development parking utilization counts at the subject site to monitor actual parking demand and ensure that the parking demand is being met. Should parking demands be different than those reported under the parking survey prepared in connection with the review of the Project, the Applicant will be required to develop a parking management plan satisfactory to the Directors of Community Development and Transportation to mitigate the parking deficiency.” (Special Condition 2)*

The purpose of the above condition is to ensure that actual parking demand is consistent with the anticipated demand outlined in the parking study. In the event that unanticipated parking impacts are occurring, corrective measures will be able to be implemented.

- *“The conditions of approval set forth in this resolution are specifically tailored to address the operation of a fitness facility that substantially conforms to the project presented to and approved by the Planning Commission at its meeting of January 13, 2011. To ensure that the subsequent fitness facilities operated at the subject site do not cause adverse impacts to other building tenants or adjacent land uses, any transfer of ownership, management, or control of the proposed fitness facility shall be reviewed by the Director of Community Development to determine whether the proposed operations of the new fitness facility substantially conform to the project approved by the Planning Commission. If the Director determines that the proposed operations do not substantially conform to the approved project, the Director shall schedule a hearing before the Planning Commission in accordance with the provisions of Section 10-3-3803 of the Beverly Hills Municipal Code. The Planning Commission expressly reserves jurisdiction at said hearing to revoke the conditional use permit or to impose additional conditions as necessary to ensure that the operation of a subsequent exercise club at the subject site is compatible with adjacent land uses.” (Special Condition 3)*

The purpose of the above condition is to ensure consistency with any project approvals granted by the Planning Commission. In the event that any operations are determined to be inconsistent with any approvals granted, modification or revocation of the approvals will be possible.

- *“Prior to the issuance of building permits for any exterior work, all exterior modifications to the building, as well as signage and window displays, shall be submitted to and approved by the Architectural Commission.” (Special Condition 4)*

The purpose of the above condition is to ensure that an appropriate architectural design is executed with the goal of enhancing the built environment and pedestrian experience.

- *“A minimum of 367 on-site parking spaces shall be maintained for use by the exercise club. Up to 334 of the 367 required parking spaces may be provided as shared parking. The Applicant shall record a parking covenant in a form satisfactory to the City Attorney to evidence the availability of the shared parking spaces.” (Special Condition 5)*

The purpose of the above condition is to ensure that adequate parking is provided for the exercise club, and that its operation will not affect other parking resources within the vicinity of the project.

- *“The Applicant shall provide two (2) hours of free parking to all members and guests of members. The Applicant shall also provide one additional half (1/2) hour of parking at rates comparable to those charged in the nearest City parking structure. The requirements set forth in this condition shall exclude valet parking unless adequate self-parking is not available on the subject site to meet the parking demand generated by the Project.” (Special Condition 6)*

The purpose of the above condition is to ensure that users of the exercise club are using the on-site parking facilities, rather than using off-site facilities and potentially impacting other parking operations within the city.

- *“The Applicant shall provide free on-site parking at all times for employees and any other consultants or agents retained by the applicant in connection with the operation of the Project.” (Special Condition 7)*

The purpose of the above condition is to ensure that employees or consultants park on-site, and do not cause spillover into any residential areas or impact existing parking operations within the vicinity of the project.

- *“No sports medical center shall be allowed as part of the proposed Project.” (Special Condition 8)*

The purpose of the above condition is to ensure that uses not reviewed as a component of the project are not established within the exercise club. Analysis has not been conducted with regard to potential impacts that could result from a sports medical center. Therefore, it is recommended that such a use be specifically excluded at this time.

- *“This CUP shall be reviewed annually by the Planning Commission during the exercise club’s first three (3) years of operation to ensure that the Project complies with the conditions set forth herein and does not have any unanticipated impacts or adversely affect adjacent uses. The Planning Commission expressly reserves jurisdiction relative to traffic and parking issues and the right to impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the proposed Project as they arise. Prior to the annual review hearing, the Applicant shall*

*submit an affidavit attesting to its continued compliance with all of the conditions of approval set forth in this Resolution.” (Special Condition 9)*

The purpose of the above condition is to ensure that the project operates in substantial conformance with the Planning Commission’s approval, and to ensure that if any unanticipated impacts arise they can be addressed as necessary.

- *“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 of 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. Mitigation may consist of a requirement to provide free valet parking for members.” (Special Condition 10)*

The purpose of the above condition is to ensure that the project does not result in any unanticipated impacts related to traffic or parking. Should issues arise, this condition gives the Director and Commission the latitude to re-review the project relative to traffic and parking impacts.

- *“The Applicant shall cap membership in the proposed club at a maximum of four thousand five hundred (4,500) members, including any transfers from other locations. This condition shall not be construed to bar the Applicant from requesting a modification at a later date to permit additional members.” (Special Condition 11)*

The purpose of the above condition is to follow past precedent and ensure that membership numbers will not reach such a level as to create traffic and parking demands beyond those currently anticipated.

- *“The proposed exercise club shall not be permitted to open for business unless and until the William Morris parking facilities become fully operational and open for use.” (Special Condition 12)*

The purpose of the above condition is to ensure that all code requirements are met for the purpose of providing shared parking, as the William Morris parking garage provides code-required parking spaces for the Bank of America building and subject project.

### **NEXT STEPS**

It is recommended that the Planning Commission conduct the public hearing and adopt the attached resolution conditionally approving the requested Conditional Use Permit, and finding the project exempt from CEQA.

Alternatively, the Planning Commission may consider the following actions:

1. Approve the project with modified findings or conditions of approval.
2. Deny the project, or portions of the project, based on revised findings.
3. Direct staff or applicant as appropriate and continue the hearing to a date (un)certain, consistent with permit processing timelines, and at applicant's request or consent.

Report Reviewed By:



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David Reyes, Principal Planner

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# ATTACHMENT A

## Staff Recommended Findings and Conditions of Approval

### DRAFT FINDINGS

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#### Conditional Use Permit

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

The proposed use is commercial in nature, and is consistent with ongoing commercial operations in the vicinity of the project site. Traffic and parking studies that have been peer reviewed by the City's Transportation Division indicate that the project will not result in any significant traffic or parking related impacts. Existing site conditions do not include pedestrian oriented development, and the proposed project will improve upon the existing conditions by providing window displays, a new pedestrian access point, and a broader range of uses along the subject property's street frontage. Further, all exterior modifications, signage, and window displays will be reviewed by the Architectural Commission to ensure a pedestrian-friendly design. As a result, the proposed project will not be detrimental to adjacent property or to the public welfare.

2. *The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;*

The proposed exercise club is consistent with commercial operations in the vicinity of the project site. Although the exercise club is not designated as a pedestrian oriented use, the proposed design will improve upon existing conditions and create a more pedestrian oriented environment. Surrounding ground floor uses consist of general retail and banking/financial uses, and there are no residential properties in the immediate vicinity of the project site. Based on existing commercial uses and surrounding development the restricted use will be compatible with and will not result in any substantial adverse impacts to surrounding uses.

3. *Granting the request for a conditional use permit will not result in an over concentration of non-pedestrian oriented uses in the block in which the proposed restricted use will be located;*

The existing building that the proposed project is intended to occupy is currently utilized entirely by general office and banking uses, which do not qualify as pedestrian oriented uses. Because the project would be replacing non-pedestrian oriented uses, the project will not result in the loss of any pedestrian oriented development. In fact, placement of the exercise club will include the installation of new window displays, a new pedestrian access point, and a broader range of uses along the subject property's street frontage. These changes will help to add some level of pedestrian oriented design, and will not result in an over concentration of non-pedestrian oriented uses in the block.

4. *Granting the request for a conditional use permit will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas; and*

Thorough analysis has been conducted to ensure that the project will not result in any traffic or parking related impacts. The proposed use is consistent with commercial operations in the

vicinity of the project site, thereby protecting the public health, safety and general welfare. Additionally, the project does not result in the loss of any existing pedestrian oriented development, and improves upon the building's existing configuration with regard to pedestrian orientation. The project site is surrounded by pedestrian-oriented developments to the north, east, and west, and leaves ample space for future retail growth in the designated pedestrian oriented areas.

5. *The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience.*

The configuration of the existing building on the project site does not appear to have been designed with pedestrian movement in mind. Existing ground-floor bank uses provide little if any pedestrian oriented atmosphere, nor does the architectural design of the building contribute to the pedestrian experience. The proposed project, as well as its accompanying architectural modifications to the ground floor will help to improve the pedestrian experience beyond existing site conditions.

## **DRAFT CONDITIONS**

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### Project Specific Conditions

1. The Conditional Use Permit (CUP) shall expire fifteen (15) years from the date of the resolution and all rights granted by this CUP shall terminate at that time. Unless the CUP is renewed, or a new CUP granted, the Applicant shall immediately cease operation of the fitness facility at this location. The Applicant shall have the right to submit requests for renewal of the CUP but shall have no right to renewal of the CUP. Any application for renewal of the CUP or a new CUP must be filed at least sixty (60) days prior to the expiration of these approvals. If the Planning Commission or City Council on appeal does not renew the CUP, the CUP shall expire and all rights possessed under the CUP shall be terminated. Provided, however, if the Applicant files a timely application for a renewal, any existing CUP shall be extended until the City takes final action on the application. Any application for a renewal of this CUP shall be subject to the application fee established by Resolution of the City Council. Upon expiration of the renewal and any future renewal, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any future renewals granted shall be governed by the provisions of the Beverly Hills Municipal Code.
2. Six (6) months after the opening of the exercise club, the Applicant shall provide to the Director of Community Development parking utilization counts at the subject site to monitor actual parking demand and ensure that the parking demand is being met. Should parking demands be different than those reported under the parking survey prepared in connection with the review of the Project, the Applicant will be required to develop a parking management plan satisfactory to the Directors of Community Development and Transportation to mitigate the parking deficiency.
3. The conditions of approval set forth in this resolution are specifically tailored to address the operation of a fitness facility that substantially conforms to the project presented to and approved by the Planning Commission at its meeting of January 13, 2011. To ensure that the subsequent fitness facilities operated at the subject site do not cause adverse impacts to other building tenants or adjacent land uses, any transfer of ownership, management, or control of the proposed fitness facility shall be reviewed by the Director of Community Development to determine whether the

proposed operations of the new fitness facility substantially conform to the project approved by the Planning Commission. If the Director determines that the proposed operations do not substantially conform to the approved project, the Director shall schedule a hearing before the Planning Commission in accordance with the provisions of Section 10-3-3803 of the Beverly Hills Municipal Code. The Planning Commission expressly reserves jurisdiction at said hearing to revoke the conditional use permit or to impose additional conditions as necessary to ensure that the operation of a subsequent exercise club at the subject site is compatible with adjacent land uses.

4. Prior to the issuance of building permits, all exterior modifications to the building, as well as signage and window displays, shall be submitted to and approved by the Architectural Commission.
5. A minimum of 367 on-site parking spaces shall be maintained for use by the exercise club. Up to 319 of the 367 required parking spaces may be provided as shared parking. The Applicant shall record a parking covenant in a form satisfactory to the City Attorney to evidence the shared parking spaces.
6. The Applicant shall provide two (2) hours of free parking to all members and guests of members. The Applicant shall also provide one additional half (1/2) hour of parking at rates comparable to those charged in the nearest City parking structure. The requirements set forth in this condition shall exclude valet parking unless adequate self-parking is not available on the subject site to meet the parking demand generated by the Project.
7. The Applicant shall provide free on-site parking at all times for employees and any other consultants or agents retained by the applicant in connection with the operation of the Project.
8. No sports medical center shall be allowed as part of the proposed Project. This condition shall not be construed to bar the Applicant from requesting a modification at a later date to permit a sports medical center.
9. This CUP shall be reviewed annually by the Planning Commission during the exercise club's first three (3) years of operation to ensure that the Project complies with the conditions set forth herein and does not have any unanticipated impacts or adversely affect adjacent uses. The Planning Commission expressly reserves jurisdiction relative to traffic and parking issues and the right to impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the proposed Project as they arise. Prior to the annual review hearing, the Applicant shall submit an affidavit attesting to its continued compliance with all of the conditions of approval set forth in this Resolution.
10. 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 of 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. Mitigation may consist of a requirement to provide free valet parking for members.

11. The Applicant shall cap membership in the proposed club at a maximum of four thousand five hundred (4,500) members, including any transfers from other locations. This condition shall not be construed to bar the Applicant from requesting a modification at a later date to permit additional members.
12. The proposed exercise club shall not be permitted to open for business unless and until the William Morris parking facilities become fully operational and open for use.

Standard Conditions

Additional standard conditions are provided in the Draft Planning Commission Resolution (Attachment B of this report).

# **ATTACHMENT B**

## **Draft Planning Commission Resolution**

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW AN APPROXIMATELY 37,000 SQUARE FOOT EXERCISE CLUB TO BE LOCATED ON THE GROUND FLOOR OF A BUILDING LOCATED WITHIN THE BUSINESS TRIANGLE, OCCUPY MORE THAN 25 FEET OF STREET FRONTAGE WITHIN THE PEDESTRIAN ORIENTED AREA, AND UTILIZE SHARED PARKING FACILITIES IN ORDER TO SATISFY THE PARKING REQUIREMENTS SET FORTH IN THE MUNICIPAL CODE, FOR THE PROPERTY LOCATED AT 9465 WILSHIRE BOULEVARD.

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

Section 1. Murray Fischer, Applicant, on behalf of Equinox Fitness Club, (collectively the "Applicant") have submitted an application for a Conditional Use Permit (CUP) to allow the establishment of an approximately 37,000 square foot exercise club to be located on the ground floor of a building located within the Business Triangle, occupy more than 25 feet of street frontage within the Pedestrian Oriented Area, and utilize shared parking facilities in order to satisfy the parking requirements set forth in the Municipal Code on the property locate at 9465 Wilshire Boulevard (the "Project"). An exercise club is a permitted use within the City's commercial zones; however, the Project requires a CUP in order to be located on the ground floor of a building located within the Business Triangle, occupy more than 25 feet of street frontage within the Pedestrian Oriented Area, and utilize shared parking facilities.

Section 2. The Project site is located on the north side of Wilshire Boulevard, in what is identified as the City's Business Triangle, and falls within the Pedestrian Oriented Area of the city. The existing neighborhood character within the vicinity of the Project consists of a variety of commercial developments, which are predominantly occupied by retail and general office uses. The Project site is immediately south of the "William Morris" building, and immediately west of the Montage Hotel. Additionally, the Project site is located immediately east of the "Two Rodeo" development, and northeast of the Beverly Wilshire Hotel.

The Project consists of tenant improvements for and the operation of an approximately 37,000 square foot exercise club within portions of the first, second, and third floors of the existing commercial building at the subject property. Floor area distribution of the exercise club includes 10,300 square feet on the first floor, 7,281 square feet on the second floor, and 19,082 square feet on the third floor. As proposed, the breakdown of uses within the subject commercial building would include 36,663 square feet of exercise club uses, 5,651 square feet of bank uses, and 122,784 square feet of general office uses. This distribution includes a 1,660 square foot area that is currently open-to-below, but would be filled in to create additional space for the exercise club.

Section 3. Parking for the existing Bank of America building is located in a subterranean garage below the building that provides 212 spaces. Additionally, the garage is connected to the William Morris parking garage at levels P1 and P3 of the Bank of America building. The purpose of connecting the two garages was to provide replacement parking for spaces belonging to the Bank of America building that were lost when parking facilities located

on what is now the William Morris site were demolished to make way for the William Morris project.

As a result, the Bank of America building controls a total of 474 spaces within the parking garage, but has access to a total of 959 parking spaces within the entire garage. Based on the total number of parking spaces provided on site and the applicability of shared parking provisions, all existing and proposed uses would comply with the City's parking requirements.

Section 4. The Project includes adding approximately 1,660 square feet of interior floor at the second floor level. The 1,660 square feet of floor area to be added and is currently within the building, but is open-to-below. In order for the Applicant to add 1,660 square feet of floor area, the addition needs to be within the maximum floor area ratio originally approved for the building. The original approvals for the subject building set a maximum floor area ratio of 4.0 to 1, and used the entire block for the purpose of establishing the total site area. Presently, the properties occupying the block have been reconfigured and the William Morris project has been constructed, which renders the original 4.0 to 1 floor area ratio inaccurate. As a result, staff relied on approved square footages for the building, rather than rely on a floor area ratio calculation that is no longer accurate. The subject building was approved for up to 166,131 square feet, and with the added floor area the building would total 165,098 square feet. Therefore, the total floor area of the building, inclusive of the proposed additions, would be within the allowed floor area and compliant with the building's original approvals.

Section 5. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000,

*et seq.* (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”), and the City’s environmental guidelines, and Class 1, Class 2, and Class 32 Categorical Exemptions has been issued in accordance with the requirements of Section 15301, 15302, and 15332 of the Guidelines for the Project. The guidelines are applicable because the Project results minor interior and exterior changes to an existing commercial building, demolition and reconstruction of a commercial space within an existing commercial building, and in-fill development within an existing urban area. The exemptions are further supported by technical environmental analysis prepared and reviewed in conjunction with the Project.

Section 6. Notice of the Project and public hearing was mailed on October 1, 2010 to all property owners and residential tenants within a 300-foot radius of the property. Additionally, notice was provided to all commercial tenants of the subject property. Seventeen letters were received from the public in support of the Project, and five letters were received from the public in opposition to the Project. The letters, as well as staff responses, were reviewed and considered by the Commission prior to acting on the Project. On October 14, 2010, November 23, 2010 and January 13, 2011 the Planning Commission considered the application at duly noticed public meetings. Evidence, both written and oral, was presented at said meeting.

Section 7. In considering the request for a Conditional Use Permit, the Planning Commission was required to make the following findings:

1. The proposed location of any such use will not be detrimental to adjacent property or to the public welfare;
2. The proposed restricted use is compatible with and will not result in any substantial adverse impacts to surrounding uses;
3. Granting the request for a conditional use permit will not result in an over concentration of non-pedestrian oriented uses in the block in which the proposed restricted use will be located;
4. Granting the request for a conditional use permit will not adversely impact the public health, safety or general welfare and will leave ample space available for future retail growth in designated pedestrian oriented areas; and
5. The configuration of the building in which the proposed space is located is not suited to pedestrian oriented retail uses and does not contribute to the pedestrian experience.

Section 8. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

1. The Project is commercial in nature, and is consistent with ongoing commercial operations in the vicinity of the Project site. Traffic and parking studies that have been peer reviewed by the City's Transportation Division indicate that the Project will not result in any significant traffic or parking related impacts. Existing site conditions do not include pedestrian oriented development, and the proposed Project will improve upon the existing conditions by providing window displays, a new pedestrian access point, and a broader range of uses along the subject property's

street frontage. Further, all exterior modifications, signage, and window displays will be reviewed by the Architectural Commission to ensure a pedestrian-friendly design. As a result, the proposed Project will not be detrimental to adjacent property or to the public welfare.

2. The proposed exercise club is consistent with commercial operations in the vicinity of the Project site. Although the exercise club is not designated as a pedestrian oriented use, the proposed design will improve upon existing conditions and create a more pedestrian oriented environment. Surrounding ground floor uses consist of general retail and banking/financial uses, and there are no residential properties in the immediate vicinity of the Project site. Based on existing commercial uses and surrounding development the restricted use will be compatible with and will not result in any substantial adverse impacts to surrounding uses.

3. The existing building that the proposed Project is intended to occupy is currently utilized entirely by general office and banking uses, which do not qualify as pedestrian oriented uses. Because the Project would be replacing non-pedestrian oriented uses, the Project will not result in the loss of any pedestrian oriented development. In fact, placement of the exercise club will include the installation of new window displays, a new pedestrian access point, and a broader range of uses along the subject property's street frontage. These changes will help to add some level of pedestrian oriented design, and will not result in an over concentration of non-pedestrian oriented uses in the block.

4. Thorough analysis has been conducted to ensure that the Project will not result in any traffic or parking related impacts. The proposed use is

consistent with commercial operations in the vicinity of the Project site, thereby protecting the public health, safety and general welfare. Additionally, the Project does not result in the loss of any existing pedestrian oriented development, and improves upon the building's existing configuration with regard to pedestrian orientation. The Project site is surrounded by pedestrian-oriented developments to the north, east, and west, and leaves ample space for future retail growth in the designated pedestrian oriented areas.

5. The configuration of the existing building on the Project site does not appear to have been designed with pedestrian movement in mind. Existing ground-floor bank uses provide little if any pedestrian oriented atmosphere, nor does the architectural design of the building contribute to the pedestrian experience. The proposed Project, as well as its accompanying architectural modifications to the ground floor will help to improve the pedestrian experience beyond existing site conditions.

Section 9. Based on the foregoing, the Planning Commission hereby grants the requested Conditional Use Permit, subject to the following conditions:

1. The Conditional Use Permit (CUP) shall expire fifteen (15) years from the date of the resolution and all rights granted by this CUP shall terminate at that time. Unless the CUP is renewed, or a new CUP granted, the Applicant shall immediately cease operation of the fitness facility at this location. The Applicant shall have the right to submit requests for renewal of the CUP but shall have no right to renewal of the CUP. Any application for renewal of the CUP or a new CUP must

be filed at least sixty (60) days prior to the expiration of these approvals. If the Planning Commission or City Council on appeal does not renew the CUP, the CUP shall expire and all rights possessed under the CUP shall be terminated. Provided, however, if the Applicant files a timely application for a renewal, any existing CUP shall be extended until the City takes final action on the application. Any application for a renewal of this CUP shall be subject to the application fee established by Resolution of the City Council. Upon expiration of the renewal and any future renewal, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any future renewals granted shall be governed by the provisions of the Beverly Hills Municipal Code.

2. Six (6) months after the opening of the exercise club, the Applicant shall provide to the Director of Community Development parking utilization counts at the subject site to monitor actual parking demand and ensure that the parking demand is being met. Should parking demands be different than those reported under the parking survey prepared in connection with the review of the Project, the Applicant will be required to develop a parking management plan satisfactory to the Directors of Community Development and Transportation to mitigate the parking deficiency.

3. The conditions of approval set forth in this resolution are specifically tailored to address the operation of a fitness facility that substantially conforms to the Project presented to and approved by the Planning Commission at its meeting of January 13, 2011. To ensure that the subsequent fitness facilities operated at the subject site do not cause adverse impacts to other building tenants or adjacent land uses, any transfer of ownership, management, or control of the proposed fitness

facility shall be reviewed by the Director of Community Development to determine whether the proposed operations of the new fitness facility substantially conform to the Project approved by the Planning Commission. If the Director determines that the proposed operations do not substantially conform to the approved Project, the Director shall schedule a hearing before the Planning Commission in accordance with the provisions of Section 10-3-3803 of the Beverly Hills Municipal Code. The Planning Commission expressly reserves jurisdiction at said hearing to revoke the conditional use permit or to impose additional conditions as necessary to ensure that the operation of a subsequent exercise club at the subject site is compatible with adjacent land uses.

4. Prior to the issuance of building permits, all exterior modifications to the building, as well as signage and window displays, shall be submitted to and approved by the Architectural Commission.

5. A minimum of 367 on-site parking spaces shall be maintained for use by the exercise club. Up to 319 of the 367 required parking spaces may be provided as shared parking. The Applicant shall record a parking covenant in a form satisfactory to the City Attorney to evidence the shared parking spaces.

6. The Applicant shall provide two (2) hours of free parking to all members and guests of members. The Applicant shall also provide one additional half (1/2) hour of parking at rates comparable to those charged in the nearest City parking structure. The requirements set forth in this condition shall exclude valet parking unless adequate self-parking is not available on the subject site to meet the parking demand generated by the Project.

7. The Applicant shall provide free on-site parking at all times for employees and any other consultants or agents retained by the Applicant in connection with the operation of the Project.

8. No sports medical center shall be allowed as part of the proposed Project. This condition shall not be construed to bar the Applicant from requesting a modification at a later date to permit a sports medical center.

9. This CUP shall be reviewed annually by the Planning Commission during the exercise club's first three (3) years of operation to ensure that the Project complies with the conditions set forth herein and does not have any unanticipated impacts or adversely affect adjacent uses. The Planning Commission expressly reserves jurisdiction relative to traffic and parking issues and the right to impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the proposed Project as they arise. Prior to the annual review hearing, the Applicant shall submit an affidavit attesting to its continued compliance with all of the conditions of approval set forth in this Resolution.

10. 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 of 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. Mitigation may consist of a requirement to provide free valet parking for members.

11. The Applicant shall cap membership in the proposed club at a maximum of four thousand five hundred (4,500) members, including any transfers from other locations. This condition shall not be construed to bar the Applicant from requesting a modification at a later date to permit additional members.

12. The proposed exercise club shall not be permitted to open for business unless and until the William Morris parking facilities become fully operational and open for use.

13. APPEAL. Decisions of the Planning Commission may be appealed to the City Council within fourteen (14) days of the Planning Commission action by filing a written appeal with the City Clerk. Appeal forms are available in the City Clerk's office. Decisions involving subdivision maps must be appealed within ten (10) days of the Planning Commission Action. An appeal fee is required.

14. RECORDATION. The resolution approving the Conditional Use 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 the 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 Project 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 Project.

15. EXPIRATION. Conditional Use Permit: The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution.

16. VIOLATION OF CONDITIONS: A violation of these conditions of approval may result in a termination of the entitlements granted herein.

17. This approval is for those plans submitted to the Planning Commission on January 13, 2011, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans, except as otherwise specified in these conditions of approval.

18. Project Plans are subject to compliance with all applicable zoning regulations, except as may be expressly modified herein. Project plans shall be subject to a complete Code Compliance review when building plans are submitted for plan check. Compliance with all applicable Municipal Code and General Plan Policies is required prior to the issuance of a building permit.

19. Approval Runs With Land. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

20. Prior to the issuance of a building permit, all applicable Park and Recreation Facilities Tax required by the Municipal Code shall be paid.

21. The Project shall operate at all times in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking or other actions.

22. The Project shall operate at all times in compliance with Municipal requirements for Noise Regulation.

23. The Applicant shall remove and replace all public sidewalks surrounding the Project site that are rendered defective as a result of Project construction.

24. The Applicant shall remove and replace all curbs and gutters surrounding the Project site that are rendered defective as a result of Project construction.

25. The Applicant shall protect all existing street trees adjacent to the subject site during construction of the Project. Every effort shall be made to retain mature street trees. No street trees, including those street trees designated on the preliminary plans, shall be removed and/or relocated unless written approval from the Recreation and Parks Department and the City Engineer is obtained.

26. Removal and/or replacement of any street trees shall not commence until the Applicant has provided the City with an improvement security to ensure the establishment of any relocated or replaced street trees. The security

amount will be determined by the Director of Recreation and Parks, and shall be in a form approved by the City Engineer and the City Attorney.

27. The Applicant shall provide that all roof and/or surface drains discharge to the street. All curb drains installed shall be angled at 45 degrees to the curb face in the direction of the normal street drainage flow. The Applicant shall provide that all groundwater discharges to a storm drain. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Connection to a storm drain shall be accomplished in the manner approved by the City Engineer and the Los Angeles County Department of Public Works. No concentrated discharges onto the alley surfaces will be permitted.

28. The Applicant shall provide for all utility facilities, including electrical transformers required for service to the proposed structure(s), to be installed on the subject site. No such installations will be allowed in any City right-of-way.

29. The Applicant shall underground, if necessary, the utilities in adjacent streets and alleys per requirements of the Utility Company and the City.

30. The Applicant shall make connection to the City's sanitary sewer system through the existing connections available to the subject site unless otherwise approved by the City Engineer and shall pay the applicable sewer connection fee.

31. The Applicant shall make connection to the City's water system through the existing water service connection unless otherwise approved by the City Engineer. The size, type and location of the water service meter installation will also require approval from the City Engineer.

32. The Applicant shall provide to the Engineering Office the proposed demolition/construction staging for this Project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries, etc., to the subject site.

33. The Applicant shall obtain the appropriate permits from the Civil Engineering Department for the placement of construction canopies, fences, etc., and construction of any improvements in the public right-of-way, and for use of the public right-of-way for staging and/or hauling certain equipment and materials related to the Project.

34. The Applicant shall remove and reconstruct any existing improvements in the public right-of-way damaged during construction operations performed under any permits issued by the City.

35. During construction all items in the Erosion, Sediment, Chemical and Waste Control section of the general construction notes shall be followed.

36. Condensation from HVAC and refrigeration equipment shall drain to the sanitary sewer, not curb drains.

37. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Examples of ground water discharges are; rising ground water and garage sumps.

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

Adopted:

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

Attest:

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Secretary

Approved as to form:

Approved as to content:

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David M. Snow  
Assistant City Attorney

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Jonathan Lait, AICP  
City Planner

R.G.

**ATTACHMENT C**  
**Public Notice**



**NOTICE OF PUBLIC HEARING**

**DATE:** October 14, 2010  
**TIME:** 1:30 PM, or as soon thereafter as the matter may be heard  
**LOCATION:** Council Meeting Room 280A  
Beverly Hills City Hall  
455 North Rexford Drive  
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its REGULAR meeting on Thursday, October 14, 2010, will hold a public hearing beginning at **1:30 PM**, or as soon thereafter as the matter may be heard to consider:

A request for a Conditional Use Permit to allow a new, 37,129 square foot exercise club (Equinox Fitness Club) to be located at **9465 Wilshire Boulevard**. Operation of an exercise club does not require issuance a Conditional Use Permit; however, an exercise club may not be located on the ground floor of any building located within the Business Triangle, occupy more than 25 feet of ground-floor street frontage within the Pedestrian Oriented Area, nor have any windows that allow exercise areas to be viewed from the street without the issuance of a Conditional Use Permit. The proposed exercise club would be located within the Business Triangle and occupy a portion of the ground floor of the building, occupy more than 25 feet of ground-floor street frontage within the Pedestrian Oriented Area, and would have windows that allow exercise areas to be viewed from the street. Therefore, a Conditional Use Permit is required for the abovementioned aspects of the project.

In addition to the request to allow a portion of the exercise club to be located on the ground floor of the building and have exercise areas visible from the street, the applicant requests a Conditional Use Permit to allow a shared parking arrangement between the exercise club and existing offices within the building. The Planning Commission may issue a Conditional Use Permit to allow up to 50% of the required parking for the exercise club to be satisfied through a shared parking arrangement if it can be demonstrated that sufficient parking is available and that the exercise club operates at different peak hours than those of the existing office uses within the building.

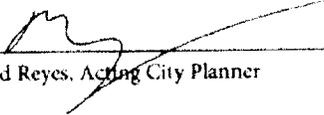
This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The project qualifies for a Class 1 Categorical Exemption for operational changes within an existing commercial facility, and the project has been determined not to have a significant environmental impact and is exempt from the provisions of CEQA.

Any interested person may attend the meeting and be heard or present written comments to the Commission.

According to Government Code Section 65009, if you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact **Ryan Gohlich, Associate Planner** in the Planning Division at 310.285.1194, or by email at [rgohlich@beverlyhills.org](mailto:rgohlich@beverlyhills.org). Copies of the applications, plans, and Categorical Exemption are on file in the Community Development Department, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.

Approved as to form:

  
\_\_\_\_\_  
David Reyes, Acting City Planner

Mailed October 1, 2010

NOTICE OF CONTINUED PUBLIC HEARING

Date: January 13, 2011  
Time: 1:30 PM, or as soon thereafter as the matter may be heard  
Location: Council Meeting Room 280A  
Beverly Hills City Hall  
455 North Rexford Drive  
Beverly Hills, CA 90210

Dear Tenant,

Please note that The Planning Commission of the City of Beverly Hills will hold a continued public hearing of a Request for a Conditional Use Permit to allow Equinox Fitness Club to be located at 9465 Wilshire Blvd.

If there are any questions regarding this notice, please contact Ryan Gohlich, Associate Planner in the Planning Division at 310.285.1194, or by email at [rgohlich@beverlyhills.org](mailto:rgohlich@beverlyhills.org). Copies of the application materials are on file in the Community Development Department, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.

OWNER'S AFFIDAVIT

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    )     ss  
CITY OF BEVERLY HILLS     )

I, Kelly Pucci, (owner, manager of the property) herby certify that, to the best of my knowledge and under penalty of perjury, the attached Tenant List correctly shows the names and addresses of all current tenants of the building at 9465 Wilshire Boulevard in the City of Beverly Hills.

I further certify that all aforementioned tenants were personally delivered the enclosed Public Notice.

Signed Kelly Pucci  
Date 1/6/11

**TENANT LIST**  
 9465 Wilshire Boulevard  
 Beverly Hills, CA

Tenant	Suite	Date	Time	Delivered By	Received By
Bank of America	100	1/6/11	11:40	Refined	<i>[Signature]</i>
Jean-Jacques Elbaz	321	1/6/11	11:43	Refined	Dan Page
Original Artists	324	1/6/11	11:44	Refined	<i>[Signature]</i>
Stuart Ketchum	325	1/6/11	11:46	Refined	WT
Family Offices	400	1/6/11	11:47	Refined	US Mail
Rich Not Gaudy / The Pitt Group	420	1/6/11	11:47	Refined	Art Rapp
Donners' Company	430	1/6/11	11:50	Refined	<i>[Signature]</i>
Baron & Budd, P.C. (Sub-tenant: Gerard V. Kassabian)	460	1/6/11	11:46	Refined	<i>[Signature]</i>
Entertainment One	500	1/6/11	11:51	Refined	<i>[Signature]</i>
The Gersh Agency	600	1/6/11	11:56	Refined	<i>[Signature]</i>
Imagine Entertainment	700	1/6/11	11:56	Refined	<i>[Signature]</i>
First International Diamond	800	1/6/11	11:58	Refined	<i>[Signature]</i>
Special Artists Agency	820	1/6/11	11:57	Refined	<i>[Signature]</i>
Phoenix Books	840	1/6/11	12:00p	Refined	Speed under door
DHX Media, Ltd	845	1/6/11	11:58	Refined	<i>[Signature]</i>
Archer Capital Management	850	1/6/11	11:58am	Refined	<i>[Signature]</i>
Principato-Young Management	880	1/6/11	12:00p	Refined	<i>[Signature]</i>
Kahn Asset Management Abrams Factor Partners	910	1/6/11	12:01	Refined	90
Montecito Picture Company	920	1/6/11	12:04	Refined	<i>[Signature]</i>
Arrow Capital Management	PH	1/6/11	12:05	Refined	<i>[Signature]</i>

## **ATTACHMENT D**

**Class 32 Categorical Exemption Report (Under Separate Cover)**