



Planning Commission Report

Meeting Date: July 14, 2011

Subject: **9400 Olympic Boulevard**
Avalon Hotel
Request for time extension and modification of Conditional Use Permit

Recommendation: It is recommended that the Planning Commission adopt the attached resolution

REQUEST FOR RESOLUTION

At its meeting of June 23, 2011, the Planning Commission held a public hearing, received the staff report and received testimony regarding the Avalon Hotel's request to: 1) extend existing entitlements; and 2) to amend existing conditions to allow the hotel to implement a valet parking charge of \$9.00 for un-registered hotel guests and restaurant patrons.

The Commission took action on these two items separately. First, with respect to the extension of existing entitlements, the Commission directed staff to prepare resolution approving a three-year time extension, including a condition to clarify that the hotel may charge registered guests an overnight parking fee, as is customary with many hotels. A draft resolution reflecting that direction is attached for the Commission's review. Second, with respect to the request to allow a valet parking charge, the Commission directed staff to prepare a resolution allowing a maximum \$5.00 valet parking charge for a 6-month trial period, including a plan to monitor the parking situation both prior to and after the valet charge is implemented.

Subsequent to the hearing, staff received two emails from Pamela Meadow, an area resident (Attachment 2). Ms. Meadow expressed concern over allowing the valet parking charge and also submitted a petition signed by 40 area residents.

Notwithstanding the Commission's approval of a \$5.00 valet fee, the Applicant, Mitchell Dawson, has requested that the issue of the valet fee be taken off-calendar and continued to a later date to allow for additional neighborhood outreach and to allow the City to first take action on the Permit Parking Zone application filed for the east side of Canon Drive (Attachment 3). In light of this, it is recommended that the Planning Commission continue this matter to a date uncertain.

Attachment(s):

1. Draft Resolution
2. Emails from Pamela Meadow
3. Email from Applicant

Report Author and Contact Information:

David Reyes
(310) 285-1116
dreyes@beverlyhills.org

ATTACHMENT 1
DRAFT RESOLUTION

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF BEVERLY HILLS AMENDING A CONDITIONAL
USE PERMIT AND GRANTING A THREE-YEAR
EXTENSION OF ENTITLEMENTS 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 Planning Commission on July 8, 2010, when it adopted Resolution No. 1582 and also amended the hours of operation and off-site parking locations. That resolution consolidated the conditions of approval of all previous resolutions and required a 6-month review of the project before the Planning Commission.

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

(1) Requires a renewal of entitlements within 3 years of the adoption of the resolution; and

(2) Amends the Conditions of Approval of Resolution No. 1582 to clarify that the hotel may charge registered guests for overnight parking.

(3) The request to remove the free valet parking condition was asked to be taken off calendar by the applicant until such time as a resident initiated permit zone application could be acted upon by the City.

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 June 23, 2011, the Planning Commission held a duly noticed public hearing to consider the application to extend and amend the CUP, 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 extend and amend the CUP.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines that, as conditioned under Resolution Nos. 1156, 1232, 1285, 1340, 1382 and 1582 (as compiled in Resolution 1582), the request to extend the entitlements 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 major 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.

Section 6. Pursuant to Condition No. 33 of Resolution No. 1582, the applicant is required to renew existing entitlements governing the hotel operations. The applicant has also asked for clarification of the parking restrictions applicable to overnight guests.

Section 7. In considering the application for the renewal of entitlements and clarification of parking charges for registered hotel guests, the amendment to the Conditional Use Permit, the Planning Commission considered whether the hotel operations have resulted in substantial adverse impact on the use and enjoyment of surrounding residential properties.

Section 8. Based upon the entire record in this matter, including the staff reports, the Planning Commission finds that the hotel has been operating in substantial compliance with conditions of approval imposed upon the hotel and that the recent approval to extend the hours of operation has not resulted in any significant impacts to the surrounding area. Further, the Commission finds that charging a parking fee for registered hotel guests is a customary practice and the requirement for free-valet parking is not intended to apply to that practice.

Section 9. Based on the foregoing, the Planning Commission hereby extends the CUP for a period of three-years and clarifies that free valet parking does not restrict the hotel from applying an overnight parking fee to registered hotel guests subject to all conditions of approval contained in Resolution No. 1582 except as modified by this resolution as follows:

1. The hotel may charge registered hotel guests an overnight parking fee.
2. This CUP, DPR and Extended Hours Permit (collectively the "Permit") shall expire within three years of the adoption of this resolution, and all rights granted by this

CUP, DPR and Extended Hours Permit shall terminate at that time. Unless the CUP, DPR and Extended Hours are renewed, or a new CUP, 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. If the Planning Commission does not extend the CUP, DPR and Extended Hours Permit, the CUP, 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, 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, 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.

Standard Conditions

3. 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 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 ..

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 14, 2011

Daniel Yukelson
Chair of the Planning Commission of
the City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

Jonathan Lait, AICP
City Planner

ATTACHMENT 2

EMAILS FROM PAMELA MEADOW

David Reyes

From: Byron Pope
Sent: Tuesday, June 28, 2011 8:48 AM
To: Susan Healy Keene
Cc: Jonathan Lait; David Reyes; Dorina Mohan
Subject: FW: Re The Avalon Hotel Conditional Use Permit

FYI - please forward to the Planning Commission.

Thank you!

Byron

BYRON POPE, CMC City Clerk
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210
B:310.285.2401 | 7:310.385.0862
::bpoppe@beverlyhills.org

-----Original Message-----

From: Pamela Meadow [<mailto:pmeadow@earthlink.net>]
Sent: Monday, June 27, 2011 10:16 PM
To: Byron Pope
Cc: jgold@beverlyhills.org; bbrucker@independentinc.com; 10-John Mirisch; 11-Lili Bosse; 3-William Brien; Jeff Levine
Subject: Re The Avalon Hotel Conditional Use Permit

Byron,

I have submitted the following letter to the Courier and Weekly. Can you please forward it to the Planning Commission as well.

I am deeply disappointed by the Planning Commission's recent decision regarding the modification of the Conditional Use Permit for the Avalon Hotel. The decision to let the hotel charge for valet parking will most definitely adversely affect the residents of the adjacent streets (Crescent, Olympic, Elm, etc).

I have been living on the corner of Crescent Drive and Olympic for the past 15 years and reside within 500 feet of the Avalon Hotel. When the Avalon opened, the parking situation became an immediate source of contention between the hotel and its neighbors. After many meetings between the neighbors and hotel management, the hotel agreed to encourage the use of its then free valet parking services.

Furthermore, the City created permit parking restrictions on Canon Drive to protect the parking for those residents. These parking restrictions only prevent hotel guests from parking on Canon south of Olympic. No such parking restrictions exist on any other streets (such as Crescent Drive) to prevent the patrons of the hotel from parking in our limited parking spots. With the change to the fee based valet parking, hotel guests will simply park one street over on south Crescent to avoid having to pay for parking.

Once the Avalon starts charging for valet parking, many more hotel guests will seek free street parking. People who come to the Avalon for meals, parties, events, etc. will park on our neighboring streets.

There are already not enough parking spots for residents, particularly those of the multi-family units, so anything that would encourage hotel visitors to park on the street is incomprehensible. I can only imagine how the additional noise of car doors slamming late at night will negatively impact the quality of life in my neighborhood.

The hotel should honor its original agreement and keep its free valet parking. The original parking agreement was put in place to protect the neighborhood and I ask the Planning Commission to please keep that condition in place now, and in the future, for the sake of the residents that they were appointed to serve. The residents should not be the ones who have to pay the price for the Planning Commission's poor decision.

Thank you,

Pamela Meadow
818-424-2276 cell
pmeadow@earthlink.net

David Reyes

From: Pamela Meadow [pmeadow@earthlink.net]
Sent: Wednesday, July 06, 2011 2:34 AM
To: Jonathan Lait; David Reyes
Cc: Barry Brucker; 10-John Mirisch; Ilii Bosse; 3-William Brien; 12-Julian Gold; Jeff Levine; Chad Lynn; Byron Pope
Subject: Re Avalon Conditional Use Permit
Attachments: Avalon Petition.pdf; ATT00001.htm

Can you please make sure that this information is included with the Planning Commission's staff report for their meeting on July 14th.

Thank you.

-Pamela Meadow

Chair Yukelson and the Planning Commission,

I am disheartened to have to write this email about the Planning Commission's recent decision regarding the Avalon Hotel and the change to their conditional use permit as it relates to the hotel's valet parking. Attached please find the signatures from 40 residents of the 400 block of South Crescent Drive and the south side of Olympic Blvd in the immediate vicinity of the hotel who all need to utilize the permit parking on Crescent Drive. ALL oppose the change to the Avalon's valet parking and do not want the Avalon to charge for their valet services.

Please note that this petition was signed by 100% of the residents that I contacted. All of the residents thanked me for doing this and 4 of my neighbors even offered to go door-to-door to help me get more signatures. This obviously reflects the strong "don't charge for valet parking" feeling of the neighborhood.

The parking problems caused by the Avalon have a negative impact on our street and adversely affect the quality of life for the residents. The 400 block of South Crescent is made up of single-family homes as well as multi-family units at the corner. Because there are no parking restrictions on Crescent Drive from 6pm - 2:30am, patrons of the Avalon park on South Crescent and in the very few overnight spots that are available to the multi-unit dwellings for permitted O/N parking. This severely limits the parking for residents who are now forced to park blocks away from their own homes and in some cases, even in the city of Los Angeles. Unlike the 400 block of South Canon, hotel patrons may park on Crescent Drive between 6pm and 2:30am without a permit. If required to pay a valet fee, even more hotel patrons would choose not to valet park and thus further exacerbate our parking problem. Additionally, street parking by Avalon guests leads to an increase in noise in the neighborhood when these patrons return to their cars late at night. Any record of police calls would not adequately reflect this noise problem as very few residents bother calling the police since the patrons would have departed by the time the police would have arrived.

The findings on page 11 of the staff report from your last meeting, specifically item 11.7, mistakenly assert that parking on residential streets in the vicinity of the Avalon is already regulated by permits which prohibit nighttime parking by Avalon patrons. Since parking is restricted only on Canon Drive and no such permit "E" restrictions exist on Crescent Drive from 6pm till 2:30am, hotel patrons are indeed parking not only on the south side of Olympic Blvd but on the 400 block of South Crescent Drive as well. This is not an assumption on my part. Not only have I stood outside personally and watched patrons park on my street and walk to the hotel (most recently on the night of June 30th) but I have also spoken with them to verify that they were indeed going to the Avalon.

I have also read the letter from Mr Dawson which is not only insulting to the surrounding residents but grossly misstates the facts. I appreciate that he has been retained to put forth the interests of the Avalon, but he does not live in this neighborhood and cannot therefore paint an accurate picture of the situation. As a 15 year resident of Beverly Hills and this neighborhood, I am intimately familiar with the issues. His statement that there is quiet enjoyment of the hotel by its neighbors is pure supposition on his part. His statement that there is not a great deal of "neighborhood" surrounding the hotel is also specious as he limits his description to a 100' radius from the hotel. Furthermore, even though Olympic Blvd is obviously noisy during rush hour, it is not noisy later at night when traffic dies down. The neighborhood is very quiet and it is disturbing to hear people getting into their cars late at night. His statement that there is limited parking on the north side of Olympic for Avalon patrons is true which is exactly the reason why they park on the south side of Olympic and neighboring streets. Mr Dawson's assertion that a relatively limited number of vehicles would not valet park if the Avalon charged for their parking is ludicrous. His statement that the other hotels mentioned in his letter also abut residential areas may be true but this has no bearing on our issue. **Our limited night parking spots makes this situation very different.** Further, in his email to

Chair Yukelson, Mr Dawson states that he was unaware of the issues raised by Kathy Bronte who resides on the 400 block of South Canon (whose residents have their own problems related to the Avalon). Obviously, Mr Dawson is unaware of many problems.

We respectfully request that the Commission not allow the Avalon to charge for valet parking as this will most certainly negatively impact the quality of life in our neighborhood. Currently, the Avalon Hotel does not charge for their valet parking and yet there are still hotel patrons who utilize street parking either because they are unaware of the free valet parking and do not wish to pay or because they do not wish to have to tip the valet. The residents do not wish to increase the number of people who would be parking on our street if the Avalon were to charge for parking!

Please do the right thing and do not let the Avalon charge for valet parking. The restriction on the valet parking was put in place for a reason - to maintain the quality of life in our neighborhood - and absolutely should remain in effect.

Thank you for your time. Please feel free to contact me if you have any questions.

Sincerely,

Pamela Meadow

I am against the Avalon charging for valet parking!

Name

Address

Destiny Padilla 9354 1/2 Olympic Blvd 90212

K. Jackson 9360 W. Olympic Blvd. #1 90212

J Carlston 9350 W. Olympic Bl,

Marc Covello 9350 Olympic Bl,

Cathy Okrent 430 S. Crescent Dr.

Jack Katzi 431 S. Crescent Dr.

Dudy Frisbe 419 S. Crescent Ar.

David Pasternak 9354 1/2 Olympic Blvd. 90212

Pam meadow 9354 Olympic Blvd 90212

Michael Moryan 9352 1/2 Olympic Blvd. 90212

Wanda Raso 9360 Olympic #2 B# 90212

E. Maghera 426 S. Crescent.

Rebecca Maghera 426 S. Crescent Dr.

I am against the Avalon charging for valet parking!

Name

Address

Selen Emarav 9348 1/2 W Olympic Blvd.

Rahul Beecher 9346 W Olympic Blvd

Bella Beecher 9346 W Olympic Blvd

ANDREW KWIAT 427 So. CRESCENT DR.

Sonya Kwiat 427 So. Crescent Dr.

DAVID - EBRAHIM & HELENA AGHAEI 443 S. CRESCENT DR

Michael Berlin M.D 434 S. Crescent Dr

Farshad Azizi 447 S. Crescent Dr.

Ryan Krause 9350 1/2 W Olympic Blvd

Ella Thomas 9350 1/2 W Olympic Blvd

Ken Wells 451 So Crescent Dr B Hill 5

Margaret 451 S. Crescent Dr. RA 90212
+ 90212

Anne Keisler 458 S. Crescent Dr BH 90212

I am against the Avalon charging for valet parking!

Name

Address

Honey Ripp 9356 W. Olympic

Anne 4355. Crescent Dr. BH, CA

Carrie 9356 1/2 W. Olympic Blvd.

St 9348 W. Olympic Blvd.

Michelle 405 S. CRESCENT DR. BH, CA

Michelle 9352 W. OLYMPIC BLVD.

Stem Jung 9354 W. OLYMPIC BLVD.

Shiva Taheri 405 S. Crescent Dr. APT 3 BH CA

Stacy Hoffberg 9358 1/2 Olympic Blvd.

Cesar Gracian 4225 Crescent Dr

LEDA TELLER 439 S. Crescent Dr BH

Leslie Pinchuk 442 S. Crescent Dr BH 9022

ATTACHMENT 3
EMAIL FROM APPLICANT

David Reyes

From: Mdawsonlaw@aol.com
Sent: Thursday, July 07, 2011 1:05 PM
To: David Reyes
Cc: pradeep.raman@viceroymotelgroup.com; mdawson@dtglaw.com
Subject: Avalon Hotel

David,

Pursuant to our most recent conversation of July 6, 2011, the following represents a request made on behalf of The Avalon Hotel with regard to the resolutions approved by the commission and to be considered on July 14, 2014:

1. Proceed with the first resolution which was approved which dealt with requests for an extension of existing entitlements, including overnite parking charges, the Conditional Use Permit and Extended Hours Permit
2. Utilize whatever appropriate mechanism necessary to take off calendar at this time the second resolution to allow the hotel to charge \$5 for valet parking, pending a Permit Parking Request now pending and further neighborhood outreach.

Please advise if you need further clarification.

Sincerely,

Mitchell J. Dawson

On Behalf of The Avalon Hotel

Mitchell J. Dawson

Dawson Tilem & Gole
9454 Wilshire Boulevard
Penthouse
Beverly Hills, Ca. 90212
310.285.0880 office
310.285.0807 facsimile
mdawsonlaw@aol.com