



Planning Commission Report

Meeting Date: May 24, 2012

Subject: **9900 Santa Monica Boulevard, 9848 Wilshire Boulevard & 9817 Wilshire Boulevard-Gateway Project:** Adoption of resolutions recommending certification of the Final Environmental Impact Report (FEIR), adoption of a Mitigation Monitoring and Reporting Plan and Statement of Overriding Considerations, and recommending adoption of a General Plan Amendment and Zoning Code Amendments to three T-1 zoned properties and the adjacent C-3 commercially zoned properties

Continued from March 22, 2012

PROJECT APPLICANTS: Jeffrey Wilson, Maynard Brittan and Jeffrey Mirken

Recommendation: Staff recommends that the Planning Commission:

1. Adopt a Resolution recommending that the City Council certify the Final EIR (FEIR) for the Beverly Hills Gateway Project, adopt findings pursuant to the California Environmental Quality Act, adopt a Statement of Overriding Considerations, and adopt a Mitigation Monitoring and Reporting Program
2. Adopt a Resolution recommending approval of a General Plan Amendment to establish a Gateway Commercial/Mixed Use/Transportation land use designation and a Zone Text Amendment to create a Commercial Planned Development Gateway (C-PD-G) Overlay Zone

REPORT SUMMARY

This report transmits draft resolutions memorializing the Planning Commission's discussion on a General Plan Amendment and Zone Change for the subject T-1 zoned properties and adjacent C3 properties. The Final Environmental Impact Report (FEIR) has been updated to reflect commissioner comments and changes to the project description (notably the elimination of the specific development project at 9900 Santa Monica Boulevard).

Overlay zone objectives and development standards have been updated and are presented for Commission review. Further Commission discussion is needed on the following:

- Review two new objectives (Objectives 13 and 14)
- Determine whether the Commission will consider additional height on Parcel 3
- Clarify whether the need for excess parking beyond Code applies to all parcels or only Parcels 1 and 2 (Objective 5).

Attachment(s):

- A. CEQA Resolution of Findings
- B. Planning Commission Resolution and draft ordinance
- C. FEIR & Supplemental Environmental analysis
- D. Mitigation Monitoring and Reporting program
- E. Letters
- F. Notice of Public Hearing

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It is anticipated that refinement of the objectives or development standards can be addressed at the meeting.

BACKGROUND

At its meeting of March 22, 2012, the Planning Commission conducted a public hearing and discussed the proposed overlay zone objectives and development standards. At that meeting, the Planning Commission directed staff to prepare resolutions recommending an overlay zone and General Plan Amendment to the City Council and recommending certification FEIR.

To create the proposed overlay zone, the Planning Commission discussed goals for the overlay zone including:

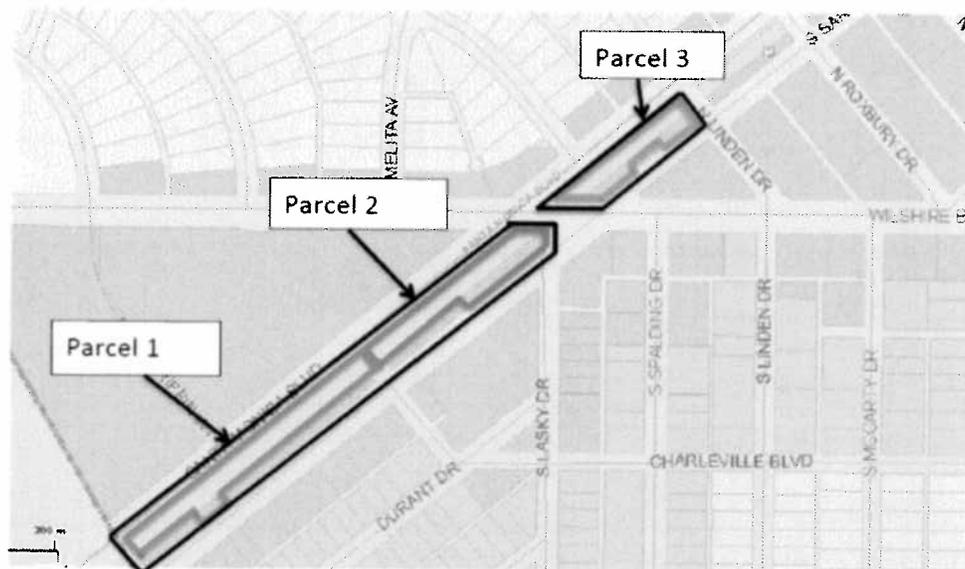
- Encourage developers to combine the C-3 lots fronting South Santa Monica Boulevard with the adjacent T-1 parcels
- Promote iconic architecture by allowing design flexibility
- Encourage ample green space and view corridors
- Develop a pedestrian-oriented area by encouraging pedestrian uses
- Address a parking deficiency in the area
- Accomplish development without negatively impacting the adjacent neighborhoods.

The proposed overlay zone objectives reflect these goals.

The proposed overlay zone and general plan amendment provide a path for the subject property owners to apply for future development of the T-1 Zoned properties or the T-1 Zoned properties in combination with the C-3 Zoned properties. At present, development of the T-1 parcels is limited to specific transportation-related uses.

PROJECT DESCRIPTION

The project involves creating a new generalized land use designation in the General Plan and amending the zoning code to create an overlay zone that could be applied to the three former railroad right-of-way properties located at 9900 Santa Monica Boulevard, 9848 Wilshire Boulevard and 9817 Wilshire Boulevard and the adjacent C3 zoned properties. If approved, development ranging from 18 to 60 feet in height could be approved along with a floor area ratio ranging from 0.0:1 to 2.0:1 depending on several factors. A variety of commercial and residential uses could be established within the overlay zone.



Proposed Overlay Zone Area

Approval of the C-PD-G Overlay Zone by the City would require each property owner to file a separate application for a zoning code amendment to apply the new overlay zone to the T-1 parcels. Development proposed under the overlay zone would require a Planned Development Permit. If a T-1 lot is developed in conjunction with an adjacent C-3 parcel, the C-3 parcel(s) would also be subject to the C-PD-G Overlay Zone objectives and standards. The underlying C-3 base zoning standards would continue to apply to the C3 parcel(s) for C-3 parcels redeveloped independent of T-1 parcels (i.e. 45' height and 2.0:1 FAR).

C-PD-G (Commercial Planned Development Gateway) Overlay Zone Text Amendment

The following objectives would be incorporated into the text amendment. These objectives have been refined to reflect Planning Commission comments and two new objectives, Objectives 13 and 14:

1. Development shall be consistent with the purpose and intent of the C-PD-G Overlay Zone and the General Plan.
2. Development within the overlay zone shall promote the garden quality of the City.
3. Lot consolidation and coordinated development of underlying T-1 zoned properties and adjacent underlying C-3 properties fronting on South Santa Monica Boulevard is encouraged and shall be required for the reviewing authority's approval of maximum height and density allowances.
4. Project design shall be internally and externally consistent and promote pedestrian, bicycle, and vehicular access and connectivity within and between C-PD-G Overlay Zone properties, the adjacent C-3 properties, and residential and hotel development built or planned across North Santa Monica Boulevard. Connectivity at or above grade and within underground parking structures shall be achieved to the extent feasible. The reviewing authority shall consider

reviewing the appropriateness of ingress/egress for proposed projects within the C-PD-G Overlay Zone to ensure that traffic will not adversely impact the adjacent residential areas and the high school area.

5. Parking shall be located below-grade and located on properties within the C-PD-G Overlay Zone; vehicle and pedestrian access to parking shall be convenient. Minimal at-grade parking may be considered by the reviewing authority. Parking in excess of the minimum required parking set forth in Section 10-3-2730 of the zoning code shall be incorporated into any development and be made available to the public. The excess public parking incorporated into any development on Parcel 1 (9900 Santa Monica Boulevard) and Parcel 2 (9848 Wilshire Boulevard) shall, on a collective basis, substantially offset the parking deficiency in the neighborhood along South Santa Monica Boulevard between the intersection with Wilshire Boulevard and the city's western boundaries.
6. Development shall take advantage of design flexibility incorporated into the C-PD-G Overlay Zone to create iconic architecture that promotes the image of the City and that respects the scale, mass, and character of surrounding development in the immediate vicinity. Building facades visible from public streets shall exhibit innovative design, distinctive architectural merit, or a combination of both.
7. Project design and site planning shall incorporate substantial area dedicated to green space, public open space, and pedestrian amenities. Building height shall be balanced with appropriate setbacks and landscaping adjacent to public streets to promote the appearance of a green belt and minimize the perception of a continuous uninterrupted wall of development as viewed from public streets. Buildings shall be well modulated.
8. Development shall be designed with pedestrian-oriented amenities and uses at the ground floor that encourage pedestrian activity during daytime and nighttime hours such as restaurants, outdoor dining and retail.
9. Development on Parcels 2 and 3 (9817 Wilshire Boulevard) shall provide significant setbacks from the intersections of Wilshire Boulevard and North and South Santa Monica Boulevard to aesthetically complement Beverly Gardens Park and fountain plaza, and the planned open space at the northwest corner of Wilshire Boulevard and North Santa Monica Boulevard. The setback area at the intersections shall include pedestrian amenities, green space, significant public art, or other elements determined to be appropriate by the reviewing authority. The size and shape of the setbacks on Parcel 2 shall be a primary consideration for any approval by the reviewing authority of maximum height allowances on that Parcel.
10. Development shall incorporate adequate land dedications or easements that may be needed for future roadway and transportation improvements, including bicycle facilities, pedestrian mobility elements, bus shelters, pedestrian bridges, or similar improvements.
11. Development shall not result in detrimental impacts to existing or planned development in the vicinity with regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, and pedestrian safety hazards, parking demand, parking design, loading, or manner of operation, unless the reviewing authority finds the development benefits outweigh the detrimental impacts.
12. Development shall include additional public benefits that the reviewing authority determines to be appropriate.

13. The reviewing authority may grant additional height for projects that preserve reasonable expectations of privacy and provide substantial green space that visually connects North and South Santa Monica Boulevards. Projects approved for additional height must have an exceptional design and must distribute building form and mass in such a way as to minimize the perception of a continuous uninterrupted wall of development as viewed from public streets and provides corridors in which to view other iconic architecture in the neighborhood. Any additional height granted may not exceed sixty feet (60'), not including permitted projections.
14. Development on the underlying T-1 zoned parcel shall not preclude future development opportunities on adjacent C-3 zoned parcels. Projects designed to meet the open space requirements of this article on portions of the T-1 parcel immediately adjacent to C-3 zoned parcels not included in the C-PD-G Overlay Zone, or designed with structures immediately adjacent to C-3 zoned parcels not included in the Overlay Zone, may be determined by the reviewing authority as having precluded future development opportunities on the adjacent C-3 zoned parcels.

Proposed Development Standards of the C-PD-G Overlay Zone

The development of properties in the C-PD-G Overlay Zone are limited and defined as follows:

1. Permitted Uses

- a. Office
- b. Retail & restaurants
- c. Galleries
- d. Museums
- e. Boutique Hotels
- f. Residential uses above ground floor (rental)
- g. Other permitted uses in C-3 Zone

2. Prohibited Uses

- a. All uses prohibited in C-3 Zone
- b. Medical offices
- c. Night clubs

• Height/Story Restriction

- a. T-1 zone Properties: one-story, 18 feet in height.
- b. Combined development of C-3 zoned and T-1 zoned properties (immediately adjacent to C-3 zoned properties): 3-story, 45 feet in height. At the discretion of the reviewing authority, a 60' high building for a combined development may be allowed.

• Floor Area Ratio(FAR)

- a. C-3 Zoned properties: 2.0:1 FAR (unchanged by overlay zone)
- b. T-1 Zoned properties: 0.5:1 FAR
- c. Combined development of C-3 and T-1 Zoned properties: C-3 Zoned properties shall not exceed 2.0 FAR; T-1 Zone properties that are immediately adjacent to C-3 Commercial properties shall not exceed 1.5:1 FAR. T-1 Zoned properties that are not immediately

adjacent to a C-3 property that is part of a combined development shall have Zero FAR (0.0:1).

- **Parking**

Parking for a project located in the proposed overlay zone shall be provided in accordance with sections 10-3-2727 through 10-3-2736 of the Beverly Hills Municipal Code. As part of the application process, the reviewing authority shall require parking in excess of the minimum required parking set forth in BHMC Section 10-3-2730 and that excess parking shall be made available for public use pursuant to Overlay Zone Objective 5.

Staff requests clarification as to whether the requirement for excess public parking shall apply to all T-1 parcels or only to parcels 1 and 2 which are located west of Wilshire Boulevard. Parcel 3 is located east of Wilshire Boulevard in the City's Business Triangle which has fewer parking deficiencies because of the existing public parking structures.

- **Other Development standards**

Any setback, green space, modulation, dedication and loading requirements shall be as authorized in a Planned Development Permit, consistent with the objectives contained within the C-PD-G Overlay Zone.

General Plan Generalized Land Use Map Amendment

The Project proposes amending the General Plan Land Use Map, which would establish a new generalized land use category of Gateway Commercial/Mixed Use/Transportation. This new Land Use Map designation would allow for development of the project site with commercial, retail, restaurant, hotels, offices, mixed use (rental residential and commercial), and transportation uses as allowed under the current zoning, provided all required entitlements and legislative approvals are granted.

The City's General Plan includes several goals and policies that support the proposed General Plan Amendment and the proposed Overlay Zone including:

- Policy LU 2.7, **City Gateways**. Explore opportunities for public improvements and private development to work together to enhance the sense and quality of entry at key gateways into the City.
- Policy 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 façades, 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 2.9, **Public Safety**. Require that development be located and designed to promote public safety by providing street-fronting uses, lighting, sight-lines, and features that enhance community safety.
- Policy LU 2.10, **Development Transitions and Compatibility**. Require that sites and buildings be planned, located, and designed to assure functional and visual transitions between areas of differing uses and densities by addressing property and height setbacks, window and entry placement, lighting, landscape buffers, and service access.

- Policy LU 4, **Land Use Distribution and Urban Form**. Community conservation that protects and enhances the distinguishing qualities of the City, the livability of neighborhoods and the economic viability of business districts while preserving environmental resources and the well-being and health of the City's residents, employees and visitors.
- Policy LU 9.1, **Uses for Diverse Customers**. Accommodate retail, office, entertainment, dining, hotel, and visitor-serving uses that support the needs of local residents, attract customers from the region, and provide a quality experience for national and international tourists.
- Policy LU 9.3, **Anchor Locations**. It is also recommended that certain anchor locations be set aside to permit development of a higher intensity type of development which is not otherwise provided in the community. These areas should be located so as to be accessible from the City's major shopping areas and close to the City's major streets. These anchor locations should include those large parcels that are located at the gateways to the City, such as the site at 9900 Wilshire Boulevard where additional building height is appropriate. A variety of land uses such as commercial, residential, and mixed use should be considered for the gateway locations. A change of use from commercial to residential or mixed use should be allowed only if such change provides an adequate transition to adjacent single family neighborhoods.
- Policy LU 9.4, **Anchor Location Design Criteria**. The anchor location should encourage unified development oriented towards and along Wilshire Boulevard planned to complement the scale and character of adjacent residential areas. In addition, development of the anchor locations should incorporate measures to enhance streets, sidewalks, and roadways in order to encourage pedestrian circulation between these areas and the Business Triangle.
- Policy LU 9.5, **Commercial/ Residential Mixed Uses**. The feasibility of allowing mixed commercial/ residential uses should be analyzed in order to expand the variety of housing types available and in certain areas, to improve commercial/ residential transitions.
- 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 11.2, **Site Planning and Architectural Design**. Require that commercial and office properties and buildings are planned and designed to exhibit a high level of site and architectural design quality and excellence.
- 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.
- Policy LU 11.6, **Parking**. Explore opportunities to expand the parking supply in underserved commercial districts and residential neighborhoods which may be developed publicly, privately, or by joint public-private partnerships.

The General Plan Land Use Designation for the subject T-1 properties at 9900 Santa Monica Boulevard, 9848 Santa Wilshire Boulevard and 9817 Wilshire Boulevard and the adjacent C-3

properties would be Gateway Commercial/Mixed Use /Transportation with a maximum floor area ratio (FAR) of 0.0:1 to 2.0:1 and maximum height of 18' to 60'. The zoning code amendment would set forth the specific development standards and procedures to develop the properties in accordance with this new land use designation. The specific zoning amendment can be found in Attachment B.

Environmental Assessment/Analysis

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines¹, and the environmental regulations of the City. The City prepared an initial study and, based on the information contained in the initial study, concluded that there was substantial evidence that the Project might have a significant environmental impact on several specifically identified resources. The City ordered the preparation of an environmental impact report (the "EIR") for the Project to analyze the Project's potential impacts on the environment. As indicated above, the Draft EIR (DEIR) was previously circulated for public review on November 3, 2008 for the required 45-day public comment period. The Planning Commission's meeting of November 20, 2008 allowed for added public testimony regarding the DEIR. In addition, the Planning Commission provided comments on the adequacy of the document and requested additional analysis to be included in the FEIR.

The Final EIR, which includes responses to all public comments as well as revisions to the document in response to Commission Comments, was released in March 2011. At its hearing of March 24, 2011, the Planning Commission directed staff to revise the project by developing an overlay zone that could apply T-1 zone properties and to all adjacent commercial properties. Supplemental Environmental Impact Analysis was prepared which describes the revised project and evaluates the associated potential environmental impacts. Importantly, the study has been updated to reflect the revised project which includes the application of the overlay zone to the three T-1 zone properties and all the adjacent commercially zoned properties. The Supplemental Environmental Impact Analysis also provides comparison of the revised project and its potential impact to the project evaluated in the March 2011 Final EIR.

The FEIR and Supplemental Environmental Impact Analysis include updated methodology and technical studies to ensure the data and conclusions of the report reflect appropriate information. The additional environmental analysis did not result in the identification of any significant new impacts compared to those identified in the Final EIR.

Supplemental Environmental Impact Analysis

A supplemental analysis has been prepared to consider the effects of the revised project. In comparison to the previously analyzed project in the March 2011 Final EIR, no specific development proposals are being considered as part of the revised project. The Supplemental Environmental Analysis includes the following analysis:

- **Aesthetics** (views, visual character, light/glare, shade/ Shadow)

The revised project, in conformance with the C-PD-G Overlay Zone objectives would alter the

¹ The CEQA Guidelines and Statute are available online at <http://ceres.ca.gov/ceqa/guidelines>

visual character of the project site. However, the design and scale would be generally compatible with surrounding development. Because of the design flexibility and design objectives introduced by the proposed overlay, aesthetic impacts would likely be reduced overall compared with the project studied in the March 2011 Final EIR.

- **Air Quality** (construction, operation, CO Hotspot)
Construction-related air quality impacts would remain significant and unavoidable, even after incorporation of the recommended mitigation measures. Mitigation would reduce impacts from PM₁₀ and PM_{2.5}, but NO_x emissions would continue to exceed thresholds, assuming concurrent development of all parcels. Operational emissions and CO hotspot impacts would remain less than significant.
- **Cultural Resources**
The revised project in conformance with the proposed Overlay Zone objectives could impact up to eight properties potentially considered historic resources. Similar to the previous project analyzed in the Gateway Project Final EIR March 2011 Final EIR, the impacts associated with the proposed Overlay Zone project are considered potentially significant and adverse, but mitigable to a less than significant level. Mitigation measures CR-1(a), CR-1 (b), as required in the Gateway Project Final EIR March 2011 Final EIR, and an additional mitigation measure are required. This additional mitigation measure would be adopted as part of the mitigation monitoring and reporting program.
- **Hazards and Hazardous Materials**
Development of the three parcels within the C-PD-G Overlay Zone would require demolition of buildings and structures that could contain asbestos and lead-based paint. Groundwater underneath the three parcels also has the potential to be contaminated as a result of historic activity on adjacent parcels. Implementation of the mitigation measures included in the original March 2011 Final EIR would reduce impacts to a less than significant level.
- **Land Use and Planning**
Overall impacts to land use and planning impacts would be reduced when compared to the original project analyzed in the March 2011 Final EIR. Impacts would be less than significant and no mitigation is required for the revised project. In contrast to the project analyzed in the March 2011 Final EIR (which if approved, would permit the proposed commercial development by right within the original project area) each future parcel specific development proposal would be required to submit a development application, which would undergo discretionary review to ensure consistency with the C-PD-G Overlay Zone design objectives. The design objectives would require substantial building setbacks, pedestrian friendly green spaces and amenities, iconic building architecture, and other design elements.
- **Noise** (construction and operation)
Construction and Operational activities would generate noise that would be audible to existing uses near the project area. Noise sources would primarily include excavation, grading, mobile construction traffic, rooftop ventilation and heating systems, trash hauling, and commercial retail activities. Noise impacts would be incrementally reduced when

compared to the original project. Implementation of the mitigation measures included in the original Gateway Project Final EIR March 2011 Final EIR would reduce impacts to a less than significant level.

- **Public Services and Utilities** (Fire Protection, Police Protection, Water Demand, Wastewater Demand, Stormwater Runoff, Solid Waste, Energy)
Impacts on BHFD services, BHPD services, water, wastewater, stormwater and energy would be incrementally reduced when compared to the original project analyzed in the March 2011 Final EIR. Implementation of the mitigation measures included in the original March 2011 Final EIR would reduce impacts to a less than significant level.
- **Transportation and Circulation**
Traffic impacts for the revised project would be incrementally reduced when compared to the impacts identified for the original project analyzed in the March 2011 Final EIR. Even after implementation of mitigation measures, impacts at the South Santa Monica Boulevard/Wilshire Boulevard would remain significant and unavoidable, thus requiring the adoption of a Statement of Overriding Considerations should the Overlay Zone proposal be approved.
- **Greenhouse Gases**
Greenhouse gas emissions from the C-PD-G Overlay Zone project could be incrementally reduced compared to original project analyzed in the March 2011 Final EIR. Impacts would remain less than significant.

Environmental Impacts

The executive summary of the Final EIR and Supplemental Environmental Impact Analysis provide an overview of all environmental impacts that could result from project approval, including mitigation measures proposed to reduce these impacts. These impacts are discussed below and a table summary of all impacts and mitigations is included as Attachment D to this report.

Significant and Unavoidable Impacts

Impact AQ-1 Temporary air pollutant emissions generated by construction activities associated with the concurrent development of all three parcels would be Class I, **significant and unavoidable**. This impact is both a project level impact and a cumulative impact that results when the project is considered in combination with other known proposed or approved development projects.

Impact T-1/T-2 Traffic generated from development of Parcels 1, 2 and 3, when added to existing traffic conditions, would result in significant impacts at two of the 11 study area intersections based on the City of Beverly Hills significance criteria. Mitigation is available to reduce impacts at one of these intersections (South Santa Monica/Moreno) to less than significant levels; however, mitigation is not feasible at one intersection (South Santa Monica Boulevard/Wilshire Boulevard). Therefore, the impact at that location would be Class I, significant and unavoidable.

Impacts Less than Significant

The Final EIR concludes that impacts to the following environmental factors would be less than significant either with or without mitigation: Aesthetics, Cultural Resources; Hazardous Materials; Noise, Land Use and Planning; Noise; Public Services and Utilities.

STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA regulations, when a public agency decides to approve a project that will cause one or more significant environmental effects, the agency shall prepare a statement of overriding considerations (SOC) which reflects the balancing of competing public objectives. Specifically, the public agency must find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment. The attached CEQA Resolution includes a Statement of Overriding Considerations to address the significant and unavoidable impacts summarized above relating to temporary air pollution impacts during construction (Impact AQ-1) and relating to cumulative traffic impacts at one area intersection (Impact T-1/T-2).

DISCUSSION

At the March 22, 2012 meeting, the Planning Commission directed staff to provide additional information on the following issues:

Objective to Allow Consideration of Additional Height

The Commission discussed allowing the reviewing authority to consider additional height for future developments in the overlay zone area if a particular project is extraordinary and directed staff to develop an additional overlay zone objective to address this. Staff suggests the following language for discussion and this language is included in the list of overlay zone objectives in this report and in the attached ordinance:

The reviewing authority may grant additional height for projects that preserve reasonable expectations of privacy and provide substantial green space that visually connects North and South Santa Monica Boulevards. Projects approved for additional height must have an exceptional design and must distribute building form and mass in such a way as to minimize the perception of continuous uninterrupted wall of development as viewed from public streets and provides corridors in which to view other iconic architecture in the neighborhood. Any additional height granted may not exceed sixty feet (60'), not including permitted projections. (Objective No. 13).

Staff was directed by the Commission to study the impact of 60-foot tall buildings for all involved parcels in the supplemental EIR. The study indicates that although the additional height would alter the visual character of the project sites, the scale and mass would be generally compatible with the surrounding developments and no significant environmental impacts are anticipated. Staff requests direction as to whether height above 45 feet may be considered by the reviewing authority for all parcels or should be limited to certain parcels.

Objective to Allow Denial of a Project that Forecloses Future Redevelopment Opportunities

The Commission also discussed the possibility that a project developed under the overlay zone might include development of T-1 Zoned properties adjacent to C-3 properties that are not part of the project or could attempt to meet open space objectives by using T-1 Zoned properties adjacent to a combined T-1/C-3 development. This could have the undesired consequence of foreclosing future development of C-3 properties because a T-1 property that has been developed with a structure or is required to fulfill open space obligations for another project is not available to combine with a C-3 property for future development. This potentially forecloses redevelopment of the adjacent C-3 properties because it is difficult for the existing C-3 properties to redevelop on their own and meet the City's parking standards. Redevelopment of the C-3 parcels in conjunction with the T-1 parcels provides the opportunity to spread the parking requirement across a greater area, resulting in better opportunities to provide a subterranean garage and ingress/egress to that garage that is acceptable from both an engineering/design and an economic perspective. The Commission directed staff to propose language to address this issue which follows:

Development on the underlying T-1 zoned parcel shall not preclude future development opportunities on adjacent C3 zoned parcels. Projects designed to meet the open space requirements of this article on portions of the T-1 parcel immediately adjacent to C3 zoned parcels not included in the Overlay, or designed with structures immediately adjacent to C3 zoned parcels not included in the Overlay, may be determined by the reviewing authority as having precluded future development opportunities on the adjacent C3 zoned parcels (Objective No. 14).

Next Steps

Staff recommends that the Planning Commission:

- Adopt Resolutions recommending that the City Council:
 - Certify the Final Environmental Impact Report (FEIR);
 - Adopt a Statement of Overriding Considerations;
 - Adopt a Mitigation Monitoring and Reporting Program;
 - Amend the General Plan; and,
 - Adopt an ordinance to create a Commercial Planned Development Gateway Overlay Zone (C-PD-G).

Report Reviewed By:



Jonathan Lait, AICP

Assistant Director of Community Development/City Planner

Attachment A
CEQA Resolution of Findings

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE BEVERLY HILLS GATEWAY PROJECT, ADOPT FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPT A MITIGATION MONITORING AND REPORTING PROGRAM

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

Section 1. Applications were submitted to the City of Beverly Hills (the “City”) for the rezoning of three independently owned parcels in the City totaling approximately 3-acres from the T-1, Transportation Zone, to C-3, Commercial Zone, a General Plan Amendment from Railroad to Commercial-Low Density General, and the development of an approximately 90,000 square foot office building with a maximum building height of 42 feet with 274 parking spaces to be located on parcel two.

Section 2. On January 18, 2008, a Notice of Preparation (“NOP”) was distributed to the State Office of Planning and Research and responsible agencies. In addition, a public scoping meeting was held on January 30, 2008 to provide information and to provide a forum where interested individuals, groups, public agencies and others could provide verbal input to the City in an effort to assist in further refining the intended scope and focus of the Environmental Impact Report (“EIR”).

Section 3. In November of 2008, a Draft Environmental Impact Report (the “DEIR”) was prepared and released for the project. In accordance with the California Environmental Quality Act (“CEQA”) (Cal. Pub. Res. Code §21000 *et seq.*) and the State Guidelines (the “Guidelines”) (14 Cal. Code Regs. §15000 *et seq.*) promulgated with respect thereto, the City analyzed the project’s potential impacts on the environment.

Section 4. The City circulated the DEIR and the Appendices for the project to the public and other interested parties for a 45-day comment period, consistent with the 45-day public comment period required by CEQA Guideline Section 15105, from November 3, 2008 to December 18, 2008.

Section 5. On November 20, 2008, the Planning Commission held a public hearing to receive comments on the DEIR.

Section 6. In June of 2010, the City elected to update and prepare a supplemental traffic analysis to assess whether any changes in the cumulative traffic setting or roadway network affected the analysis, conclusions, or recommendations of the original 2008 traffic analysis. At this same time, the City also updated the greenhouse gas emissions analysis and General Plan policy consistency analysis.

Section 7. The project was subsequently refined to consist of development of an Overlay Zone for the three parcels that comprised the original project area, along with all immediately adjacent parcels currently zoned C-3 (the "Project"). In contrast to the originally proposed project, the Project does not include any specific development proposal. The entire Project site consists of an approximately 4.46-acre flat, long and narrow site that consists of 26 assessor's parcels.

Section 8. The City prepared an analysis in full compliance with CEQA of the environmental effects of this refined Project. This analysis included the environmental effects of the maximum conceptual buildout that could occur under the proposed Overlay Zone on the three parcels that comprised the original project area, along with all immediately adjacent parcels currently zoned C-3. On parcel one, maximum conceptual buildout would consist of one-story development if proposed only on the currently zoned T-1 property. Development of the combined T-1 and C-3 zoned properties would allow for a maximum of four stories, with retail on the ground floor and offices on the upper floors. Parking would be provided in a subterranean parking garage. On parcel two, maximum conceptual buildout would consist of one story buildings if development is only proposed on the currently zoned T-1 property. Development of the combined T-1 and C-3 zoned properties would allow for a maximum of four stories with retail on the ground floor and office spaces on the upper floors. Parking would be provided in a subterranean parking garage. On parcel three, maximum conceptual buildout would consist of one story buildings if development is only proposed on the currently zoned T-1 property. Development of the combined T-1 and C-3 zoned properties would allow for a maximum of four stories with retail on the ground floor and office spaces on the upper floors. Parking would be provided in a subterranean parking garage.

Section 9. The City prepared written responses to all comments received on the DEIR and those responses to comments are incorporated into the Final Environmental Impact Report (the "Final EIR").

Section 10. The Final EIR is comprised of the DEIR dated November 2008 and all appendices thereto, the supplemental traffic, greenhouse gas, and General Plan consistency analysis, the Supplemental Analysis completed for the refinements to the Project, written responses to all comments received on the DEIR, and the Mitigation Monitoring Program.

Section 11. The findings made in this Resolution are based upon the information and evidence set forth in the Final EIR and upon other substantial evidence that has been presented at the hearings and in the record of the proceedings. The documents, staff reports, technical studies, appendices, plans, specifications, and other materials that constitute the record of proceedings on which this Resolution is based are on file for public examination during normal business hours at the Community Development Department, City of Beverly Hills City Hall, 455 N. Rexford Ave. Beverly Hills, California 90210. Each of those documents is incorporated herein by reference.

Section 12. The Planning Commission finds that agencies and interested members of the public have been afforded ample notice and opportunity to comment on the EIR and the Project.

Section 13. Section 15091 of the State CEQA Guidelines requires that the City, before approving the Project, make one or more of the following written finding(s) for each significant

effect identified in the Final EIR accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; or,
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or,
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Section 14. Section 15093 of the State CEQA Guidelines requires that if the Project will cause significant unavoidable adverse impacts, the City must adopt a Statement of Overriding Considerations prior to approving the project. A Statement of Overriding Considerations states that any significant adverse project effects are acceptable if expected project benefits outweigh unavoidable adverse environmental impacts.

Section 15. Environmental impacts identified in the Initial Study to be less than significant and do not require mitigation are described in Section IV respectively of Exhibit A, attached hereto and incorporated herein by reference.

Section 16. Environmental impacts identified in the Final EIR as less than significant and do not require mitigation are described in Section V respectively of Exhibit A, attached hereto and incorporated herein by reference.

Section 17. Environmental impacts identified in the Final EIR as significant but mitigable are described in Section VI respectively of Exhibit A, attached hereto and incorporated herein by reference.

Section 18. Environmental impacts identified as significant and unavoidable despite the imposition of all feasible mitigation measures are described in Exhibit A Section VII, attached hereto and incorporated herein by reference.

Section 19. Alternatives to the Project that might eliminate or reduce significant environmental impacts are described in Exhibit A, Section VIII, attached hereto and incorporated herein by reference.

Section 20. A discussion of the Project benefits and a Statement of Overriding Considerations for the environmental impacts that cannot be fully mitigated to a less than significant level are set forth in Exhibit B, attached hereto and incorporated herein by reference.

Section 21. Public Resources Code section 21081.6 requires the City to prepare and adopt a mitigation monitoring and reporting program for any project for which mitigation measures have been imposed to assure compliance with the adopted mitigation measures. The Mitigation Monitoring and Reporting Program is attached hereto as Exhibit C, and is hereby incorporated herein by reference.

Section 22. Prior to taking action, the Planning Commission reviewed, considered and has exercised its independent judgment on the Final EIR and all of the information and data in the administrative record, and all oral and written testimony presented to it during meetings and hearings and finds that the Final EIR is adequate and was prepared in full compliance with CEQA. No comments or any additional information submitted to the City, including the supplemental analysis on the refinements to the Project, have produced any substantial new information requiring recirculation or additional environmental review of the Project under CEQA.

Section 23. The Planning Commission of the City of Beverly Hills, California, hereby recommends that the City Council of the City of Beverly Hills certify the Final Environmental Impact Report, adopt findings pursuant to the California Environmental Quality Act as set forth in Exhibit A attached hereto and incorporated herein by reference; adopt the Statement of Overriding Considerations substantially as set forth in Exhibit B attached hereto and incorporated herein by reference; and adopt the Mitigation Monitoring and Reporting Program attached hereto as Exhibit C and incorporated herein by reference.

Section 24. The Secretary shall certify to the adoption of this Resolution, and shall cause this Resolution and his certification to be entered into the Book of Resolutions of the Planning Commission of the City.

Adopted:

Craig Corman
Chair of the Planning Commission
of the City of Beverly Hills, California

ATTEST:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Jonathan Lait, AICP
Assistant Director of Community
Development/City Planner