



Beverly Hills
Planning Division
455 N. Rexford Drive Beverly Hills, CA 90210
TEL. (310) 285-1141 FAX. (310) 858-5966

Planning Commission Report

Meeting Date: September 12, 2013

Subject: **Concept Review**
9748-9766 Wilshire Boulevard

Presentation by a property owner of a proposal to provide public parking at the property in exchange for consideration of an increase in density beyond the density currently allowed for the property.

APPLICANT: Robert Goldman

APPLICANT'S REPRESENTATIVE: Mark Egerman

Recommendation: Receive this report and provide direction to staff as appropriate.

REPORT SUMMARY

On August 9, 2013, attorney Mark Egerman submitted a letter to the Planning Commission (attached) requesting that the Commission discuss enforcement of a covenant between the owner of the property at 9748 Wilshire Boulevard, Robert Goldman, and the owner(s) of the building at 120 Spalding Drive. Mr. Egerman appeared at the August 12, 2013 Planning Commission meeting during public comment and made a similar request. The Planning Commission agreed to place the matter on the September 12, 2013 meeting agenda for discussion of policy issues related to parking in the area of the subject sites. Mr. Egerman has submitted a letter dated September 5, 2013, attached, that provides a summary of the issues.

NEXT STEPS

It is recommended that the Planning Commission receive the staff report and a presentation from the applicant, and provide direction as appropriate.

Report Prepared By:

Michele McGrath, Principal Planner

Attachment(s):

- A. August 9, 2013 letter from Mark Egerman
- B. September 5, 2013 letter from Mark Egerman

Report Author and Contact Information:

Principal Planner Michele McGrath
(310) 285-1135

mmcgrath@beverlyhills.org

ATTACHMENT 1

August 9, 2013 Letter from Mark Egerman

Begins on following page

EGERMAN LAW GROUP, LLP

MARK EGERMAN
mark@egermanlaw.com

LEE EGERMAN
lee@egermanlaw.com

9401 Wilshire Boulevard
Suite 500
Beverly Hills, California 90212-2918

TELEPHONE
(310) 248-6299

FACSIMILE
(310) 248-6288

August 9, 2013

Via Personal Delivery

Beverly Hills Planning Commission
Chairman: Brian Rosenstein
Vice Chairman: Howard S. Fisher
Commissioner: Daniel Yukelson
Commissioner: Craig Corman
Commissioner: Alan Robert Block

Re: 9748-9766 Wilshire Blvd., Beverly Hills, California

Dear Chairman Rosenstein, Vice-Chairman Fisher, Commissioner Yukelson,
Commissioner Corman, and Commissioner Block:

I represent Mr. Robert Goldman and Southeast Corner, LLC, a California Limited Liability Company which owns the real property at 9748-9766 Wilshire Boulevard, Beverly Hills, California ("Wilshire Property"). The property is located at the southeast corner of Wilshire Boulevard and Spalding Drive in Beverly Hills and is across the alley and immediately to the north of 120 Spalding Drive, a medical building ("Spalding Property"). Mr. Goldman is the sole member and owner of Southeast Corner, LLC.

The Wilshire Property and Spalding Property are subject to a Covenant for the benefit of the City of Beverly Hills recorded on October 19, 1981. The pertinent provisions of the Covenant are as follows:

1. The Wilshire Property and the Spalding Property are "to be treated as a single site for the sole and limited purposes of compliance with the Beverly Hills Municipal Code relating to parking, floor area ratio and loading zones." (Covenant, page 4, top paragraph on page.)
2. The total floor area allowed for both properties is 93,563 square feet. The Spalding property may build out 61,009 square feet. The Wilshire Property currently has 25,953 square feet, and may build out an additional 6,601 square feet. (Covenant, page 4, paragraph 2.)

3. Total floor area of the Wilshire Property and Spalding Property shall not exceed that permitted by the Beverly Hills Municipal Code at the time future floor area is requested. (Covenant, page 5, paragraph 2.)
4. The Spalding Property "shall at all times provide and maintain 98 automobile parking spaces (as prescribed by the Municipal Code of City) on the Spalding Property for the benefit of the Wilshire Property." (Covenant, page 6, paragraph 6(a).)
5. The Covenant runs with the land and is binding on the owners of the Wilshire Property and the Spalding Property and their successors in interest. (Covenant page 7, paragraph 7.)

By City Council Resolution 95-R-9257 dated September 20, 1995, the Spalding Property was granted a CUP to convert 18,474 square feet of general office use space to medical space without required code parking on certain conditions. The pertinent provisions of the Resolution are as follows:

1. The Spalding Property is to "provide free, validated, on-site valet parking for all patrons of 120 South Spalding Drive and 9748-9766 Wilshire Boulevard." (Resolution, page 5, paragraph 1.)
2. If medical uses in the Spalding Property create a "substantial adverse impact on traffic or parking" additional conditions may be imposed under the CUP "including a condition that would require an appropriate number of employees who work in the medical offices to refrain from parking at the project site." (Resolution, page 6, paragraph 6.)

Until this year, there has been adequate parking in the area of Wilshire Boulevard and Spalding Drive for two reasons: (1) The office building on the southwest corner of Wilshire and Spalding was vacant, and its approximate 125 space garage was available to the Spalding Property and members of the general public; and (2) the Wilshire Property has remained vacant for the last decade and a half.

My clients are now actively engaged in efforts to lease the Wilshire Property using the 98 covenanted spaces in the Spalding Property or to develop a new 32,554 square foot building on the site with some additional parking on site, but with the majority of the parking at the Spalding Property. Under either scenario, my clients would use substantially all of the 98 allocated spaces at the Spalding Property.

Representatives of the Spalding Property have recently informed my clients that there is no additional parking available for the Wilshire Property at the Spalding Property. Further, that any visitor parking at the Spalding Property made available to

Beverly Hills Planning Commission
August 9, 2013
Page 3

patrons of the Wilshire Property will be charged a fee. These positions taken by the representatives of the Spalding Property are in direct violation of the terms of the Covenant and the Resolution. These positions, my clients believe, are the result of a severe parking shortage in the area caused by the recent removal of approximately 125 spaces in the garage on the west side of Spalding Drive and my clients' intention to lease or develop the Wilshire Property.

The severe parking shortage in the Wilshire Boulevard and Spalding Drive area and the recent positions regarding parking taken by representatives of the Spalding Property have created a severe problem for my clients and the City. My clients cannot enter into meaningful negotiations to lease the existing buildings or to develop a new code and Covenant conforming building without knowing what parking is actually available in the Spalding Property. Any potential lessee or developer of the Wilshire Property would require that at all times there are "98 automobile parking spaces (as prescribed by the Municipal Code of City) on the Spalding Property for the benefit of the Wilshire Property" as part of any lease or development agreement. Thus, given the severe shortage of parking in the area and the positions taken by representatives of the Spalding Property, my clients are not able to enter into meaningful negotiations with prospective tenants or developers.

The City is charged with the responsibility of enforcing the Covenant and the CUP. Further, the City is losing thousands of dollars annually from lost sales tax and business licence fees in having the Wilshire Property vacant because of the severe lack of parking in the area of Wilshire Boulevard and Spalding Drive.

I am, therefore, requesting that the Planning Commission set this matter as an agenda item at one of your upcoming meetings for the purpose of enforcing the terms of the Covenant and the CUP.

Attached are copies of the Covenant and Resolution granting the CUP for your reference.

Your attention to this matter is deeply appreciated.

Very truly yours,



MARK EGERMAN

ME/jl
enclosures

9/12/95

1.2.4.01 222

RESOLUTION NO. 95-R-9257

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AFFIRMING THE DECISION OF THE PLANNING COMMISSION CONDITIONALLY GRANTING A CONDITIONAL USE PERMIT TO ALLOW THE CONVERSION OF A PORTION OF AN EXISTING GENERAL OFFICE BUILDING TO MEDICAL USES AT 120 SOUTH SPALDING DRIVE

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

Section 1. Banyan Management (the "applicant") has applied for a conditional use permit (a "C.U.P.") to allow the conversion of 18,474 square feet of floor area within the building at 120 South Spalding Drive from general office use to medical office use without providing the parking otherwise required by the Beverly Hills Municipal Code (the "project"). Beverly Hills Municipal Code Section 10-3.2730 provides parking standards for medical office uses.

Section 2. Based on the initial study, the mitigated negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the mitigated negative declaration prepared for the Project represents the independent judgment of the City and that with implementation of the mitigation measures contained in the negative declaration, there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the

record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 3. On April 26, 1995, May 24, 1995, June 28, 1995, and July 13, 1995, the Planning Commission held duly noticed public hearings to consider the application. Evidence, both written and oral, was presented at said hearings. Based upon the evidence presented to it, the Planning Commission adopted the negative declaration and approved the project, subject to certain conditions.

Section 4. On September 6, 1995, the City Council held a duly noticed public hearing to consider the appeal. Evidence, both written and oral, including the staff report and supporting documentation, was presented at said hearing. At the conclusion of the public hearing, the Council directed staff to prepare a resolution affirming the decision of the Planning Commission and denying the appeal.

Section 5. Based upon the evidence presented, the City Council hereby finds:

- a) The project site is located in a Commercial (C-3) zone. The site consists of four lots and is located on the east

side of Spalding Drive, just south of Wilshire Boulevard. The site is improved with a three story building. Residential buildings abut the southerly border of the subject site and a parking lot abuts the project on the east. Street parking in the residential areas near the project site is prohibited Monday through Friday from 8:00 a.m. to 6:00 p.m.

b) The subject building currently houses over 20,000 square feet of medical office uses. Additionally, the applicant intends to convert over 22,000 square feet of general office use to medical office use in a manner consistent with the parking requirements of the Beverly Hills Municipal Code. In order to convert the 22,000 square feet of floor area from general office to medical use, the applicant will use tandem and compact spaces to provide one parking space for each 200 square feet of medical office floor area. Such use of tandem and compact spaces is permitted by the Beverly Hills Municipal Code.

c) Additionally, the applicant is requesting that the Planning Commission issue a C.U.P. to allow conversion of an additional 18,474 square feet of general office floor area to medical uses without providing one parking space per 200 square feet of floor area. Pursuant to Beverly Hills Municipal Code Section 10-3.2730(i), a property owner may convert general office uses to medical uses without providing one parking space per 200 square feet of floor area if the building has a minimum parking

920
221

ratio of one parking space per 350 square feet, the property owner provides free validated valet parking for patrons of the medical uses and the Planning Commission issues a C.U.P. upon finding that the number of parking spaces have been maximized to the extent feasible and the medical office use will not have an adverse impact on the surrounding area.

d) The number of parking spaces provided at the project site have been maximized to the extent feasible. The applicant has provided valet parking service for the building and employed tandem and compact parking spaces in order to maximize the number of spaces.

e) As conditioned, the medical office use will not have an adverse impact on the surrounding area. The traffic and parking study indicates that approval of the project would have an insignificant impact on traffic and parking in the surrounding area. Additionally, if parking becomes insufficient to accommodate the medical uses, the Director of Planning may impose additional conditions to avoid a traffic or parking impact on surrounding streets. Such conditions may include a prohibition against all or a specified number of the medical office employees parking at the project site. Finally, due to the location of the valet station, queuing to enter the project site is unlikely to occur on Spalding Drive.

Section 6. Based upon the foregoing, the City Council hereby adopts the Mitigated Negative Declaration, affirms the Planning Commission decision, and grants the Conditional Use Permit to allow the conversion of a portion of an existing general office building to medical uses as approved by the Planning Commission, subject to the following conditions:

1. The applicant shall provide free, validated, on-site valet parking for all patrons of 120 South Spalding Drive and 9748-9766 Wilshire Boulevard.

2. Aisle parking space Nos. F1 through F4, as shown on the plans submitted to the Planning Commission, shall be used by the valet parking service only if no other parking space is available within the building.

3. The monthly parking rate shall be set at, or below, the lowest rate available for comparable parking at any parking structure within a five block radius of the project site. (For example, the rate for reserved spaces shall be compared to the rate at other structures for reserved spaces. The rate for unreserved spaces shall be compared to the rate at other structures for unreserved spaces. The rate for an unreserved parking space is currently \$70 per month).

4. The applicant shall maintain its current "Early Bird Special" parking rate of \$3 per day for cars arriving before 9:30 a.m.

5. The applicant shall ensure that there is no queuing in the street by patrons waiting to park at the project site.

6. If the Director of Planning and Community Development determines that occupancy of the project site by medical uses creates a substantial adverse impact on traffic or parking, then the applicant shall comply forthwith with any additional conditions imposed by the Director that are designed to mitigate such impact, including a condition that would require an appropriate number of employees who work in medical offices to refrain from parking at the project site. The applicant shall be responsible for financing the cost of compliance with such conditions.

The applicant may appeal to the Planning Commission the imposition of any such condition. Such appeal must be filed with the Director within ten calendar days after the applicant receives written notice regarding the imposition of the additional condition. The Planning Commission shall hold a noticed public hearing regarding the imposition of such condition and shall uphold the imposition of the condition if the Commission determines that impacts of the project reasonably require the imposition of a condition to protect against adverse traffic and parking impacts and that the condition will appropriately address one or more of the impacts caused by medical uses that occupy the project site.

If the applicant appeals the imposition of a condition imposed by the Director to the Planning Commission, the condition

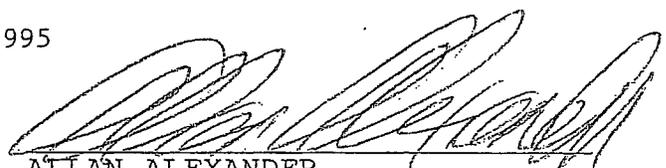
shall not become effective until the Planning Commission makes a determination regarding the appeal.

7. In all leases of medical office space executed after the date of adoption of this resolution, the applicant shall include a provision which provides that no employee of the medical office shall be permitted to park at the project site if the City prohibits such employees from parking at the project site.

8. The applicant shall be responsible for financing the costs of compliance with the conditions of this resolution.

Section 7. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Council of this City.

Adopted: September 20, 1995


ALLAN ALEXANDER
Mayor of the City of
Beverly Hills, California

ATTEST:
 (SEAL)
FRANCES M. MALNECK
City Clerk

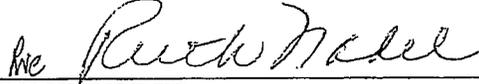
[signatures continue]

Approved as to form:


GREGORY W. STEPANICICH
City Attorney

Approved as to content:


MARK SCOTT
City Manager


RUTH NADEL
Director of Planning and
Community Development

9/12/95

81-1029774

WHEN RECORDED MAIL TO:

City Clerk
450 N. Crescent Drive
Beverly Hills, California 90210

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
31 MIN. 1 P.M. OCT 19 1981
PAST.

COVENANT
(Density)
(Parking)

FEE \$ 18.00
15

DATE: August 24, 1981

PARTIES: CITY OF BEVERLY HILLS, a municipal corporation of the State of California ("City");

9756 WILSHIRE PROPERTIES, a limited partnership ("Wilshire");

BUCKEYE CONSTRUCTION COMPANY, INC., a California corporation ("Buckeye").

BACKGROUND:

Wilshire is the fee owner of the following described real property situated in the City of Beverly Hills, County of Los Angeles, State of California, more fully described as follows:

Lots 650 and 651, Tract 7710, as per map recorded in Book 83, Pages 94 and 95 of Maps, Official Records of Los Angeles County, California; together with Lot 37, Tract 6648, as per map recorded in Book 71, page 48

of Maps, Official Records of Los Angeles County, California (the "Wilshire Property").

Wilshire is also the lessee under a 99-year ground lease dated as of April 1, 1968, a memorandum of which was recorded April 5, 1968, as Document No. 1790 in Book M-2822, Page 635, Official Records, Los Angeles County California, as heretofore amended (the "Ground Lease"). The Ground Lease covers certain real property situated in the City of Beverly Hills, County of Los Angeles, State of California, more fully described as follows:

Lots 646, 647, 648 and 649, Tract 7710, as per map recorded in Book 83, Pages 94 and 95 of Maps, Official Records of Los Angeles County, California (the "Spalding Property").

Buckeye is the fee owner of the Spalding Property.

The Wilshire Property contains approximately 22,275 square feet of land area. The Wilshire Property is currently improved with commercial buildings containing in the aggregate approximately 25,953 square feet of building area ("Existing Buildings"), and provides parking for three automobiles.

The Spalding Property contains approximately 24,500 square feet of land area.

The Spalding Property is currently unimproved, except for surface paving, and is currently operated as a parking lot.

On February 26, 1981, the City issued a building permit to Wilshire with respect to Wilshire's leasehold estate in the Spalding Property (the "Building Permit"). The Building Permit authorizes the construction by Wilshire on its leasehold estate of the Spalding Property of a commercial structure containing approximately 61,009 square feet of building area, together with parking for 274 automobiles, and loading zones ("New Building").

Heretofore, the Wilshire Property and the Spalding Property have been the subject of a One Site Covenant dated October 1, 1968, recorded October 9, 1968, in Book M-3011, Page 124, Official Records, Los Angeles County, California (the "Existing One Site Covenant"), as well as several parking covenants whereunder the Spalding Property has been burdened with certain parking requirements for the benefit of the City and the Wilshire Property so long as certain uses were maintained on the Wilshire Property. These several parking covenants were previously recorded as follows:

Book M-1643, Page 150; Book M-5538, Page 953; Book M-5538, Page 955; and Book M-2085, Page 397, all in the Official Records of Los Angeles County, California (the "Existing Parking Covenants").

The uses on the Wilshire Property for which most of the Existing Parking Covenants were provided are no longer maintained on the Wilshire Property.

It is the desire of Wilshire, Buckeye and the City to maintain the Wilshire Property and the Spalding Property as two separate sites for ease of administration, provided the sites continue to be treated as a single site for the sole and limited purposes of compliance with the Beverly Hills Municipal Code relating to parking, floor area ratio and loading zones.

Accordingly, the parties agree as follows:

1. The Existing One Site Covenant shall be and is hereby cancelled and terminated and shall henceforth be of no further force and effect.

2. The total allowable floor area ratio under current law (at time of execution and recording of this covenant) as to both the Wilshire Property and the Spalding Property is 93,563 square feet. The actual floor area of the Existing Buildings is 25,953 square feet. The floor area of the New Building pursuant to the Building Permit is 61,009 square feet. Accordingly, the remaining floor area available for future floor area under current law as to both the Wilshire Property and the Spalding Property is 6,601 square feet ("Remaining Available Floor Area"). Such Remaining Available Floor Area is hereby allocated to the Wilshire Property, provided such Remaining Available Floor Area shall not cause the total floor area ratio for the Wilshire Property and Spalding Property to exceed the total allowable floor area permitted at the time future floor area for the Wilshire Property is requested. Wilshire agrees that construc-

tion and maintenance of improvements on the Wilshire Property shall henceforth be limited to the amount of floor area contained in the Existing Buildings plus the Remaining Available Floor Area, and that the total floor area ratio on the Wilshire Property and Spalding Property shall not exceed that permitted by the Beverly Hills Municipal Code at the time future floor area is requested.

3. Nothing herein shall be deemed construed as a waiver by City of any other requirements of law for the construction of the New Building, or the maintenance of the Existing Buildings, regardless of whether such requirements are matters of zoning, building construction, health and safety or other such matters of public concern.

4. Wilshire and Buckeye hereby covenant, promise and agree with the City for the benefit of the City, its public property and the Wilshire Property, that Wilshire and Buckeye shall at all times provide and maintain loading zones on the Spalding Property as shown on the drawings attached to the Building Permit and the existing loading zone on the Wilshire Property. It is understood that such loading zones on each of the Wilshire Property and the Spalding Property satisfy, under current law, all requirements for loading zones to respectively serve such properties.

5. The Existing Parking Covenants shall be and are hereby cancelled and terminated and shall henceforth be of no further force and effect.

6. Wilshire and Buckeye hereby covenant, promise and agree with the City for the benefit of the City, its public property, and the Wilshire Property that:

(a) Wilshire and Buckeye shall at all times provide and maintain 98 automobile parking spaces (as prescribed by the Municipal Code of City) on the Spalding Property for the benefit of the Wilshire Property. Such 98 automobile spaces include 74 automobile parking spaces required under the present Beverly Hills Municipal Code for the Existing Buildings, and 24 additional non-required automobile spaces for the benefit of the Wilshire Property.

(b) The failure to provide and maintain the 74 required parking spaces described in (a) above for any reason shall cause the revocation of the Certificate of Occupancy for use of the Existing Buildings in addition to other prescribed penalties and remedies.

(c) In the event that at any time a use of the Wilshire Property is discontinued, or a different use is made of the Wilshire Property, and the different or similar use on the Wilshire Property is one which would require a lesser number of parking spaces under the Municipal Code of the City, or if other lawful parking is provided for the Wilshire Property, the City, upon the written application of Wilshire shall appropriately modify or cancel the Parking Covenant contained in this Paragraph 6 to appropriately reduce the number of parking spaces to be provided and maintained on the

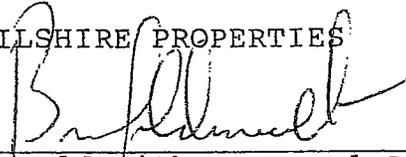
Spalding Property for the benefit of the Wilshire Property. No future or changed use may be made of the Wilshire Property which requires an increased number of parking spaces over and above the 74 automobile parking spaces required under the Beverly Hills Municipal Code for the Existing Building unless such additional parking spaces are provided in accordance with then applicable law as required for such future or changed use.

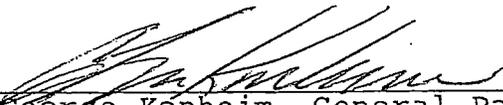
7. It is the intention of the parties that the covenants contained in this document shall constitute covenants running with each land parcel described herein, and shall be jointly and severally binding upon Wilshire and its successors and assigns in the ownership of the Wilshire Property and tenancy of the Spalding Property, and Buckeye and its successors and assigns in the ownership of the Spalding Property.

81- 1029774

8. Whenever the context hereof requires, the neuter shall include the masculine or feminine or both, and the singular shall include the plural.

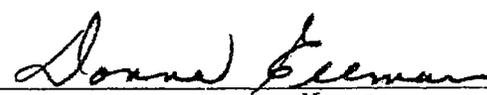
9756 WILSHIRE PROPERTIES

By 
Bram Goldsmith, General Partner

By 
George Konheim, General Partner

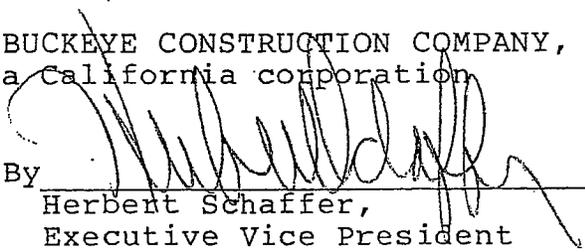
"WILSHIRE"

CITY OF BEVERLY HILLS, a Municipal Corporation

By 
DONNA ELLMAN Mayor

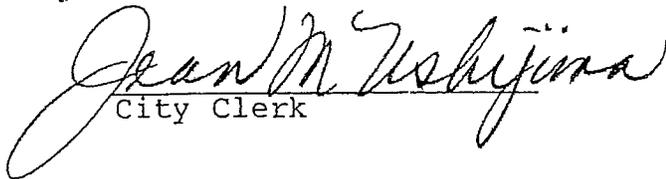
"CITY"

BUCKEYE CONSTRUCTION COMPANY, INC.,
a California corporation

By 
Herbert Schaffer,
Executive Vice President

"BUCKEYE"

ATTEST:

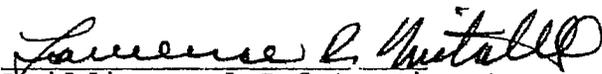

City Clerk

APPROVED AS TO FORM:


City Attorney

APPROVED AS TO CONTENT:

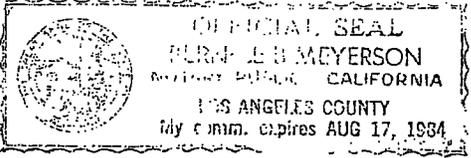

City Manager


Building and Safety Director

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On August 26, 1981, before me, the undersigned, a Notary Public in and for said State, personally appeared BRAM GOLDSMITH, known to me to be one of the General Partners of 9756 WILSHIRE PROPERTIES, the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

WITNESS my hand and official seal.



Bernice B. Meyerson

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On 8/24/81, 1981, before me, the undersigned, a Notary Public in and for said State, personally appeared GEORGE KONHEIM, known to me to be one of the General Partners of 9756 WILSHIRE PROPERTIES, the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

WITNESS my hand and official seal.



Brenda S. Gray

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

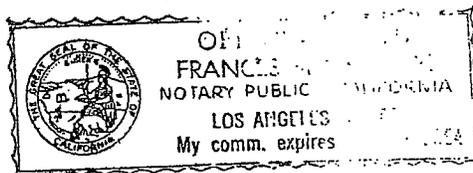
On October 6, 1981, before me, the undersigned,

a Notary Public in and for said State, personally appeared

Lawrence Ellman, known to me to be the Mayor of CITY OF BEVERLY HILLS, a Municipal Corporation, the corporation that executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

Lawrence Ellman

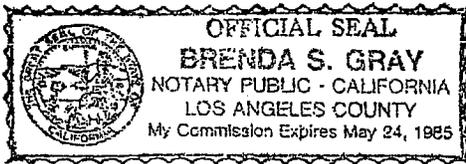


450 N. Crescent Drive, Beverly Hills, CA 90210

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On August 24, 1981, before me, the undersigned,
a Notary Public in and for said State, personally appeared
HERBERT SCHAFFER, known to me to be the Executive Vice
President of the corporation that executed the within
instrument, known to me to be the person who executed the
within instrument on behalf of the corporation therein
named, and acknowledged to me that such corporation executed
the within instrument pursuant to its bylaws or a resolution
of its board of directors.

WITNESS my hand and official seal.



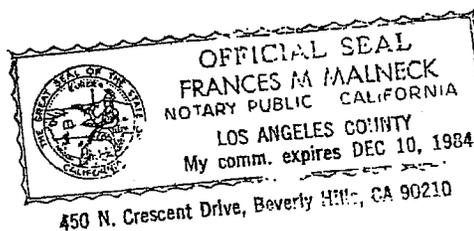
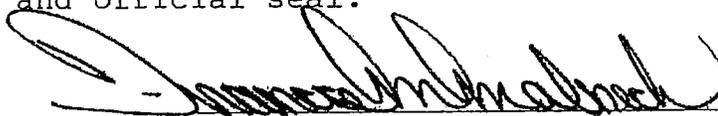
Brenda S. Gray

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On October 6, 1981, before me, the undersigned,

a Notary Public in and for said State, personally appeared
Frank M. Ushijima, known to me to be the City Clerk of CITY OF
BEVERLY HILLS, a Municipal Corporation, the corporation that
executed the within instrument on behalf of the corporation
therein named, and acknowledged to me that such corporation
executed the within instrument pursuant to its bylaws or a
resolution of its board of directors.

WITNESS my hand and official seal.



ATTACHMENT 2

September 5, 2013 Letter from Mark Egerman

Begins on following page

EGERMAN LAW GROUP, LLP

MARK EGERMAN
mark@egermanlaw.com

LEE EGERMAN
lee@egermanlaw.com

9401 Wilshire Boulevard
Suite 500
Beverly Hills, California 90212-2918

TELEPHONE
(310) 248-6299

FACSIMILE
(310) 248-6288

September 5, 20134

Via Personal Delivery

Beverly Hills Planning Commission
Chairman: Brian Rosenstein
Vice Chairman: Howard S. Fisher
Commissioner: Daniel Yukelson
Commissioner: Craig Corman
Commissioner: Alan Robert Block

Re: 9748-9766 Wilshire Blvd., Beverly Hills, California

Dear Chairman Rosenstein, Vice-Chairman Fisher, Commissioner Yukelson,
Commissioner Corman, and Commissioner Block:

As you know, I represent Mr. Robert Goldman and Southeast Corner, LLC, a California Limited Liability Company which owns the real property at 9748-9766 Wilshire Boulevard, Beverly Hills, California ("Wilshire Property"). I am writing you to follow up on my letter of August 9, 2013, in reference to the severe parking shortage by reason of the fact that the Covenant recorded on October 19, 1981, requires the building at 120 Spalding to supply 98 parking spaces for the benefit of the Wilshire Property.

As I related to you in my prior letter, my clients are in the process of seeking to rent their existing three buildings totaling 25,953 square feet or developing a new build to suit building of 32,554 square feet, either of which would substantially use all 98 covenanted spaces at 120 Spalding. My clients have been informed, however, by representatives of 120 Spalding that the parking structure is full, there are no spaces available, and that any visitors to the Wilshire Property using the 120 Spalding garage will be charged the full valet parking rate.

In giving considerable thought as to how to solve the problem of inadequate parking for my clients' property and 120 Spalding, my clients have concluded that any solution must involve construction of substantial additional parking on their property over and above what they are required to build under the existing code and the Covenant. If serious consideration is to be given to building additional parking on the

Wilshire Property, obviously it must be done before my clients lease the existing buildings or enter into an agreement to construct a new build to suit 32,554 square foot building.

My clients are willing to engage in meaningful discussions with the City, the owners of 120 Spalding, and others to resolve the parking problem. As one of the pieces of a solution, they are willing to consider the transfer of some or all of the 98 covenanted spaces to the City, 120 Spalding, or another entity (e.g., the City's Parking Enterprise Fund). Further, my clients are willing to undertake a substantial portion of the costs of constructing the code required number of parking spaces at the Wilshire Property, exclusive of the spaces provided under the Covenant, if they are allowed to build a 2:1 FAR building. A 2:1 FAR is the density allowed under the current Beverly Hills Municipal Code and would allow the construction of a 44,000 square foot building, or 12,000 square feet more than allowed under the Covenant.

There are a variety of possible solutions to the parking shortage. Given the facts that my clients are willing to transfer some or all of the 98 covenanted spaces and build, substantially at their cost, the code required number of parking spaces for a 2:1 FAR building at the Wilshire Property, my clients working with the City, 120 Spalding, and any other interested parties should be able to reach a solution in a relatively short period of time.

My clients suggest that they meet with a subcommittee of the Planning Commission, City Staff, and representatives of 120 Spalding to devise a solution to the severe parking problem at Wilshire Boulevard and Spalding Drive for presentation to the City Council for approval.

Thank you for your consideration of this matter.

Very truly yours,



MARK EGERMAN

ME/jl
enclosures