



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: February 27, 2014

Subject: **228 South Beverly Drive
Zone Text Amendment and Rooftop Lunchroom**
Request for a Zone Text Amendment to Beverly Hills Municipal Code Section 10-3-3107 regarding rooftop uses, and a request for a Development Plan Review to allow the construction of a 2,202 square foot rooftop lunchroom on the building located at 228 South Beverly Drive.
PROJECT APPLICANT: Moshe Kraiem

Recommendation: That the Planning Commission:

1. Conduct a public hearing and receive testimony on the project; and
2. Direct staff to prepare a resolution denying the requested Zone Text Amendment and Development Plan Review.

REPORT SUMMARY

The proposed project involves a requested Zone Text Amendment to certain development standards for rooftop lunchrooms on commercial buildings, and a request for a Development Plan Review to construct a rooftop lunchroom on the building located at 228 South Beverly Drive, pursuant to the development standards set forth in the proposed Zone Text Amendment. This report analyzes the potential changes and drawbacks that could result from the proposed Zone Text Amendment, with particular focus on parking, enforcement, employee use, redevelopment, and equity, and analyzes the individual rooftop lunchroom proposed on the building located at 228 South Beverly Drive. Staff's analysis concludes that while the proposed Zone Text Amendment could be beneficial in some instances, there are certain drawbacks that outweigh the benefits regarding the overall impact such an amendment might have on existing and future development within the City, and the recommendation in this report is for denial of the Zone Text Amendment. Staff's analysis further concludes that while it may be possible to make certain findings in support of the specific addition proposed on the building located at 228 South Beverly Drive, the addition will not be possible without the requested amendment, and therefore the recommendation in this report is for denial of the proposed rooftop lunchroom.

Attachment(s):

- A. Required Findings
- B. Public Notice
- C. Architectural Plans

Report Author and Contact Information:

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rgohlich@beverlyhills.org

BACKGROUND

File Date	10/16/2013
Application Complete	11/16/2013
Subdivision Deadline	N/A
CEQA Deadline	60 days from CEQA Determination
CEQA Determination	Projects that are denied are not subject to CEQA; however, in the event the Planning Commission elects to move forward with the project, the project would be eligible for Class 5 and Class 1 Categorical Exemptions, which apply to limited changes in land use limitations (the Zone Text Amendment), as well as limited additions to existing commercial buildings (the proposed rooftop lunchroom).
Permit Streamlining	4/27/2014 without extension request from applicant
Applicant(s)	Moshe Kraiem
Owner(s)	Orbit Limited Partnership
Representative(s)	Joe Tilem
Prior PC Action	None
Prior Council Action	None

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	228 South Beverly Drive
Legal Description	Tract # 6380, Lot 2035
Zoning District	C-3
General Plan	General Commercial - Low Density
Existing Land Use(s)	Retail, Restaurant and General Offices
Lot Dimensions & Area	50' x 121.4' – 6,070 square feet
Year Built	1952
Historic Resource	The property is not listed on the City's inventory as being potentially historic, nor was it designed by a Master Architect.
Protected Trees/Grove	None

Adjacent Zoning and Land Uses

North	C-3 – Retail, Restaurant and General Offices
South	C-3 – Retail, Restaurant and General Offices
East (across alley)	R-4 – Multi-Family Residential
West	C-3 – Retail, Restaurant and General Offices

Circulation and Parking

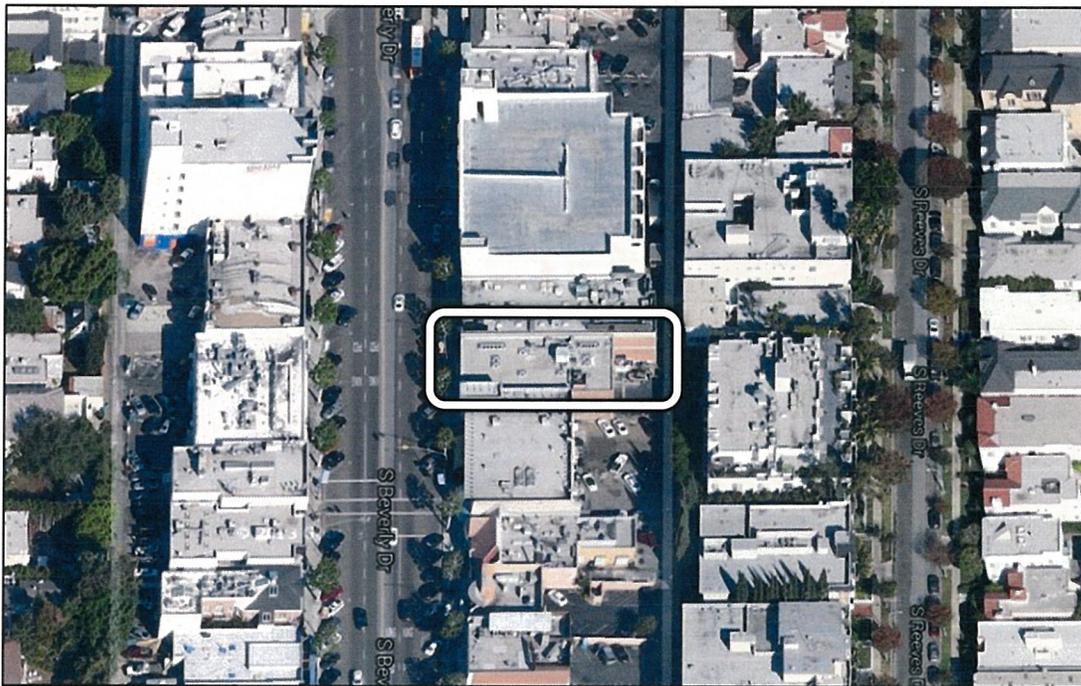
Adjacent Street(s)	South Beverly Drive
Adjacent Alleys	One-way, 15'-wide, northbound alley located east of the property
Parkways & Sidewalks	South Beverly Drive sidewalk/parkway – 10' from face of curb to property line
Parking Restrictions	Diagonal street parking – 1-hour meters
Nearest Intersection	South Beverly Drive and Charleville Boulevard

Circulation Element South Beverly Drive is an arterial street and Charleville Boulevard is a local street.

Estimated Daily Trips South Beverly Drive carries approximately 8,000 daily trips, and Charleville Boulevard carries approximately 6,000 daily trips.

Neighborhood Character

The project site is located in the middle of the 200 block of South Beverly Drive. South Beverly Drive tends to have somewhat of a village-type atmosphere, with ground floors lined with smaller retail and restaurant establishments. Many of the commercial buildings are limited to one or two stories in height; however, several taller buildings such as the City parking facility and the Beverly Hills Storage building are located in close proximity to the project site. Multi-family apartment and condominium buildings are located immediately east of the project site, and tend to vary in height from two to three stories. Parking for many of the commercial and residential properties is accessed via the northbound alley east of the project site.



Project Site Looking North



Street View of Existing Facade

PROJECT DESCRIPTION

The existing building on the project site is two stories and contains 7,820 square feet of floor area. The applicant seeks to construct a 2,202 square foot lunchroom above the second floor of the existing building. The additional floor area would require seven additional parking spaces, which the applicant is unable to provide on site. Consequently, the applicant has requested a Zone Text Amendment to allow the lunchroom to be exempted from parking requirements. Concurrently, the applicant has submitted a request for a Development Plan Review to construct the subject lunchroom, which would be contingent upon approval of the Zone Text Amendment. The proposed lunchroom includes the following:

- Two stair shafts
- One men's restroom
- One women's restroom
- Vending machines
- An open seating area

The proposed rooftop lunchroom would have a maximum height of 14'6" above the existing roof deck of the two-story building, causing the building's height to be increased to an overall maximum of 38'4" (below the code-restricted maximum of 45'). No additional parking spaces are proposed in conjunction with the rooftop lunchroom.

Requested Permits

The applicant is seeking approval of a Zone Text Amendment and Development Plan Review (DPR) for the rooftop lunchroom described above. Ordinarily, such a lunchroom could be constructed through the approval of a DPR, provided that the lunchroom complies with all zoning codes, including the provision of code-compliant parking for the lunchroom floor area added to the structure. In the case of the proposed project, the lunchroom complies with all applicable zoning codes (including height), with the exception of providing additional parking spaces. Parking would normally be required at a rate of one space per each 350 square feet, which in the case of the 2,202 square foot lunchroom would be equal to seven additional parking spaces. The applicant is unable to provide the additional parking spaces that would otherwise be required, and instead seeks to amend existing code provisions that exempt parking requirements for rooftop lunchrooms that exceed the otherwise allowable maximum building height. The applicant's proposed amendment is intended to exempt all rooftop lunchrooms from having to

provide parking, regardless of whether the rooftop lunchroom exceeds the otherwise allowable maximum building height; however, the amendment would also allow other rooftop uses permitted under the code to be added to buildings even in such instances when the rooftop structure would not exceed the otherwise allowable maximum height. The Zone Text Amendment proposed by the applicant, which applies in most commercial districts in the City, is shown below in strikeout/underline format:

10-3-3107: ROOFTOP USES:

- A. *Notwithstanding any provisions to the contrary contained in this title, the planning commission may permit, pursuant to the development plan review procedure contained in this article and subject to the restrictions set forth in this subsection, development in the C-3, C-R, C-3A, and C-3B zones ~~to exceed height, story and density limitations otherwise applicable to the development~~ in order to permit the establishment of rooftop: 1) gymnasiums, 2) lunchrooms and structures or uses ancillary to such lunchrooms, and 3) unenclosed architectural features that are not otherwise excluded from the definition of "height of building" in section 10-3-100 of this chapter, provided that as to any such rooftop structures or uses:*
- 1. The planning commission makes the findings set forth in section 10-3-3104 of this chapter regarding the rooftop use.¹*
 - 2. The additional height above the maximum height limit otherwise applicable to the development may exceed height, story, and density limitations otherwise applicable to the development, but may~~will~~ not exceed fifteen feet (15'). Furthermore, in no event shall the distance between the floor and ceiling of the gymnasium or lunchroom and structures or uses ancillary to such lunchroom exceed fifteen feet (15').*
 - 3. The total floor area of the development shall not exceed the maximum allowable floor area otherwise applicable to the development by more than three thousand five hundred (3,500) square feet or fifty percent (50%) of the total area of the story immediately below the rooftop use, whichever is less.*
 - 4. No food service, other than vending machines, shall be provided in connection with the rooftop use.*
 - 5. The subject structure provides not less than the minimum number of parking spaces required by this section as of the date when building permits for the structure were issued. In addition, two (2) parking spaces shall be provided for any rooftop gymnasium.*
 - 6. Unless authorized by the planning commission as part of the development plan review, only persons who work in the building or are registered hotel guests will be permitted to use the rooftop facilities.*
 - 7. No admittance or use fees shall be charged for the use of the rooftop facilities.*

¹ The findings for a Development Plan Review (Section 10-3-3104) are set forth in Attachment A of this report.

8. *The additional structure permitted pursuant to this article shall be set back from the property line or from the required setback line immediately adjacent thereto, whichever is the more restrictive, so that a forty five degree (45°) angle to such line is not intersected.*
9. *Notwithstanding the provisions of subsection A8 of this section, unenclosed architectural features approved pursuant to this section may intersect a forty five degree (45°) angle to the vertical plane of the nearest outside wall if the planning commission finds that such features are architecturally compatible with the building and will not adversely impact the building's scale and massing. In addition, any other additional structure approved pursuant to this section may intersect a forty five degree (45°) angle to the vertical plane of the nearest outside wall provided that the exterior wall of the additional structure permitted is constructed in the same plane as the exterior wall of the floor below and the additional structure will not exceed the applicable maximum allowable height otherwise permitted by more than forty five inches (45").*
10. *Notwithstanding the provisions in the definition of "height of building" in section 10-3-100 of this chapter permitting certain elements to be located above maximum height limits, only those elements required by law to project above the roof deck shall be permitted to exceed the fifteen foot (15') height limit of the structure enclosing the rooftop use permitted hereby.*

ZONING CODE² COMPLIANCE

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

Rooftop Uses

As proposed, the rooftop lunchroom does not comply with current codes because it does not provide any parking spaces. Consequently, the applicant requests the subject Zone Text Amendment that would cause the proposed lunchroom to be exempted from parking requirements in a manner similar to that which currently applies to rooftop lunchrooms located above the otherwise allowable maximum building height.

GENERAL PLAN³ POLICIES

The General Plan includes numerous goals and policies intended to help guide development in the City. Some policies relevant to the Planning Commission's review of the project include:

- Policy CIR 4.1 Parking Provisions. Ensure that adequate parking is provided for existing and future uses while considering shared parking opportunities, Travel Demand Management (TDM) plans, and availability of alternate modes of travel, based on the site's proximity to transit.

² Available online at http://www.sterlingcodifiers.com/codebook/index.php?book_id=466

³ Available online at http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp

- Policy CIR 4.9 Parking Area. Support measures that help reduce parking demand and the space required for parking.
- Policy LU 2.4 Architectural and Site Design. Require that new construction and renovation of existing buildings and properties exhibit a high level of excellence in site planning, architectural design, building materials, use of sustainable design and construction practices, landscaping, and amenities that contribute to the City’s distinctive image and complement existing development.
- Policy LU 12.2 Building, Parking Structure, and Site Design. Require that buildings, parking structures, and properties in commercial and office districts be designed to assure compatibility with abutting residential neighborhoods, incorporating such elements as setbacks, transitional building heights and bulk, architectural treatment of all elevations, landscape buffers, enclosure of storage facilities, air conditioning, and other utilities, walls and fences, and non-glare external lighting.
- Policy LU 15.1 Economic Vitality and Business Revenue. Sustain a vigorous economy by supporting businesses that contribute revenue, quality services and high-paying jobs.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	2/21/2014	6 Days
Newspaper Notice	10 Days	2/17/2014	2/14/2014	13 Days
Mailed Notice (Owners & Residents - 300' Radius, Owners of Single-Family – 500' Radius)	10 Days	2/17/2014	2/13/2014	14 Days
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	2/21/2014	6 Days

Public Comment

The City has not received any public comments regarding the project as of the writing of this report.

ANALYSIS

Project approval, conditional approval or denial is based upon specific findings for each discretionary application requested by the applicant. The findings that must be made in order to approve the project are provided as Attachment A, and may be used to guide the Planning Commission’s deliberation of the subject project. Additionally, specific topics considered by staff in evaluating the project are provided below for consideration by the Commission.

Legislative History. Regulations regarding rooftop lunchrooms were initially adopted by the City in 1990, and it would appear that the original intent of the regulations was to encourage lunchrooms, as well as certain other amenities within buildings. There were numerous concerns contemplated

by the City Council at the time the ordinance was adopted, including parking, traffic, and enforcement, and the below analysis revisits these concerns as well as new concerns that may not have been contemplated when the ordinance was adopted 24 years ago. However, the intent of the regulations with respect to whether they should apply to all buildings regardless of height is unclear. The applicant asserts that rooftop structures should include any structure built on the top of a building, while it is staff's belief that rooftop structures should only include structures built above the otherwise allowable maximum height. In particular, the staff reports presented to the City Council at the time the original ordinance was adopted state that the ordinance will:

"Permit one additional story of no more than 15 feet to be constructed on an existing building of any height, or to be constructed as part of a new building."

While the above usage of the term "any height" could be interpreted to include one- and two-story buildings, the staff reports primarily discuss buildings that are already at or above the maximum building height, and it is staff's determination that the term "any height" was an acknowledgment of the fact that over-height buildings (buildings of any height) could make such a request, and the reports specifically state that rooftop structures on the City's tallest buildings would not be visible from the street due to the height of the structures. Furthermore, the City has only approved eleven rooftop structures (lunchrooms, gyms, etc.) since adoption of the subject ordinance in 1990, and all of the approved structures exceeded the otherwise allowable maximum building height. Structures that do not exceed the maximum building height are simply considered to be additions, and not subject to the rooftop provisions. Finally, even if the original ordinance contemplated one- and two-story buildings being eligible for the parking exemption for employee lunchrooms, the code language as adopted does not support such an intent, and an amendment would be required.

Parking. Providing sufficient parking for development projects has previously been identified as a concern by the City Council and Planning Commission. In the case of the proposed project, 2,202 square feet of floor area would be added to the existing building without providing any additional parking spaces. Typically, an addition of that size would require seven parking spaces, whereas the existing building provides only six parking spaces⁴.

The original ordinance assumed that additional parking may not be required for a lunchroom since the users of the lunchroom would be employees already on site; however, staff notes that the existing building (as well as most other buildings that would be eligible for the proposed amendment) contains an employee lunchroom and restroom facilities on the second floor. The existing lunchroom and restrooms in the subject building do not occupy a substantial amount of square footage (approximately 300 square feet), but would presumably be converted to additional office space in the event the rooftop lunchroom is approved. From a policy perspective, staff recommends that the Planning Commission consider the implications of converting space previously used as a lunchroom area to office space. Depending on the nature of the office use, additional employees could be accommodated through such a conversion. For the subject building, the possibility of accommodating additional employees within the existing lunchroom area may be somewhat limited; however, conversions in larger buildings could cause a more significant increase

⁴ In order to be eligible for the rooftop lunchroom parking exemption the building would need to provide a total of seven parking spaces, which is the number required when the building was constructed. Staff believes that one additional space could be accommodated on site if necessary.

in the number of employees working in a building without the requirement of additional parking. Parking impacts could be somewhat limited when considered on a building-by-building basis, but the cumulative impact of multiple buildings constructing rooftop lunchrooms without parking could be detrimental. Staff recognizes that there is nothing that would currently prevent a building owner from carrying out such a conversion now if that were desired, but the proposed amendment may create added incentives to do so.

Enforcement. One of the challenges with allowing certain components of buildings to be exempted from parking is enforcement in making sure that such area is not converted to a different use that would require parking. The most common parking exemptions apply to stair shafts, elevator shafts, and mechanical rooms within buildings. While it is possible that these types of building components could be converted to some other use without the City's knowledge, it is generally unlikely due to the structural work that would likely be required to achieve such a conversion. However, in the case of lunchrooms, and particularly the floor plan proposed by the applicant, the floor plans tend to be open and the finishes are similar to those found throughout the building, allowing the lunchroom to function as somewhat of a flex space that could be used for meetings or additional employees with little to no modification. Monitoring how a space is used over time can be problematic from an enforcement perspective, and a lunchroom used for purposes beyond those intended in the Municipal Code could lead to increased traffic, parking, and other unanticipated impacts.

Employee Use of Lunchroom. The applicant asserts that allowing the construction of a well-designed lunchroom can serve as a benefit to employees of a building in that a desirable lunchroom may encourage employees to remain at the office during lunch. If employees stay in during lunch, this may have the effect of reducing traffic and parking during lunchtime hours. While this may be the case in some instances, staff notes that much of the City, including South Beverly Drive, is quite walkable and contains numerous restaurants and shops, and the number of employees that drive during lunch may already be somewhat limited due to the pedestrian-oriented nature of the surrounding neighborhood. Additionally, employees that go out during lunch to shop or dine help to support local businesses, and while it would not be the City's intent to restrict an employee's ability to eat lunch at their office, consideration should be given to the benefits that result from employees shopping and dining locally within Beverly Hills.

Redevelopment Opportunities. One consideration not discussed during the original adoption of the subject ordinance pertains to redevelopment opportunities in the City. The City of Beverly Hills contains a wide variety of commercial buildings that are of different ages and sizes. Some of the one- and two- story commercial buildings in the City are considered to be underdeveloped, and some of the properties that exceed current code limitations are considered to be overdeveloped. In some instances, the City may be interested in encouraging redevelopment of underdeveloped properties to sustain economic growth and promote the pedestrian experience; however, it may also be desirable to preserve some of the one- and two-story buildings, particularly when they are adjacent to residential and other sensitive uses. One way to encourage the preservation of desirable, underdeveloped buildings may be to allow the proposed amendment as an incentive for property owners to rehabilitate an existing building. Conversely, allowing rooftop lunchrooms to be exempted from parking may also serve as a disincentive to the redevelopment of properties that the City would prefer to see redeveloped. Therefore, staff recommends that the Commission weigh the effects of the proposed amendment on future redevelopment opportunities.

Equity. Currently, rooftop lunchrooms that exceed otherwise allowable height limitations are exempted from parking, whereas lunchrooms that do not exceed otherwise allowable height limitations are not exempted from parking. In considering the applicant’s request, and as a matter of policy, the Commission may wish to discuss whether the separate standards are equitable to property owners, and whether uniform standards should be applied to lunchrooms regardless of the height of the existing building.

Size of Lunchroom. In the event that the Planning Commission is able to make findings in support of the requested amendment, staff recommends that the Commission consider whether the size of the proposed lunchroom is appropriate in relation to the size of the existing building. The existing commercial building contains 7,820 square feet of floor area, and the lunchroom would include 2,202 square feet of floor area, which is equal to 28% of the existing building’s floor area. Lunchrooms are generally intended to be ancillary to office uses, and while the Municipal Code allows an applicant to request a lunchroom of that size, the proposal appears to be disproportionate to the building’s office and retail components. Given the disproportionality of the proposed lunchroom to the overall building area, staff has concerns about the intended use of the lunchroom and recommends that the Planning Commission explore why such a substantial increase in floor area is required to support an ancillary component of the building.

Potential Pros and Cons. A summary of the potential pros and cons identified by staff and discussed above in this report are summarized below for consideration by the Planning Commission:

Potential Pros	Potential Cons
<ul style="list-style-type: none"> • Employees may utilize lunchroom more, thereby driving less and reducing parking demand • May serve as an incentive for preservation of one- and two-story buildings adjacent to sensitive uses • Creates a more equitable development standard 	<ul style="list-style-type: none"> • Increased parking demand and traffic from existing lunchrooms being converted to office space • Difficult enforcement regarding use of space • Lunchroom may serve as flex space, causing additional parking demand and/or traffic • May discourage redevelopment of underdeveloped properties • Employees may frequent surrounding restaurants and shops less often, reducing pedestrian activity and support for local businesses

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and direct staff to prepare a resolution denying the requested Zone Text Amendment and Development Plan Review.

Alternatively, the Planning Commission may consider the following actions:

1. Make findings in support of the request and direct staff to prepare a resolution memorializing the findings.
2. Direct staff or applicant as appropriate and continue the hearing to a date (un)certain, consistent with permit processing timelines, and at applicant's request or consent.

Report Reviewed By:



Jonathan Lait, AICP, City Planner

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ATTACHMENT A

Required Findings

REQUIRED FINDINGS

Zone Text Amendment

1. *The Zone Text Amendment will result in a benefit to the public interest, health, safety, morals, peace, comfort, convenience, or general welfare.*

Development Plan Review

1. *The proposed plan is consistent with the general plan and any specific plans adopted for the area.*
2. *The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.*
3. *The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.*
4. *The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.*
5. *The proposed plan will not be detrimental to the public health, safety or general welfare.*

ATTACHMENT B

PUBLIC NOTICE



NOTICE OF PUBLIC HEARING

DATE: February 27, 2014
TIME: 1:30 PM, or as soon thereafter as the matter may be heard
LOCATION: Commission Meeting Room 280A
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its REGULAR meeting on Thursday, February 27, 2014, will hold a public hearing beginning at 1:30 PM, or as soon thereafter as the matter may be heard to consider the following:

Zone Text Amendment. A request for a Zone Text Amendment to amend the Beverly Hills Municipal Code regarding provisions for rooftop employee lunchrooms on commercial buildings. Current code provisions allow for rooftop employee lunchrooms to be exempted from applicable parking requirements only when the rooftop lunchroom would exceed the otherwise allowable maximum height for the property. The requested amendment would allow rooftop employee lunchrooms to be exempted from providing parking, regardless of whether said employee lunchroom exceeds the otherwise allowable maximum building height; and

Development Plan Review. A request for a Development Plan Review for the property located at 228 South Beverly Drive to allow the construction of an approximately 2,200 square foot rooftop employee lunchroom on the roof deck of the existing building without providing additional parking spaces. This request is being made pursuant to the proposed Zone Text Amendment described above, and would be contingent on the approval of the Zone Text Amendment by the City Council.

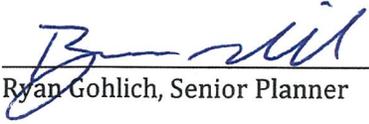
This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The project qualifies for a Class 5 Categorical Exemption for minor alterations in land use limitations and a Class 1 Categorical Exemption for interior and exterior alterations to an existing commercial building, and the project has been determined not to have a significant environmental impact and is exempt from the provisions of CEQA.

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

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

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

Sincerely:



Ryan Gohlich, Senior Planner

Mailed February 13, 2013

ATTACHMENT C

ARCHITECTURAL PLANS

(PROVIDED AS A SEPARATE ATTACHMENT)