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: December 11, 2014

Subject: **246 North Canon Drive**
Development Plan Review and In-Lieu Parking
Request for a Development Plan Review and participation in the City's In-Lieu Parking District to allow a 7,107 square foot addition to the existing commercial building located at 246 North Canon Drive. Pursuant to the provisions set forth in the California Environmental Quality Act (CEQA), the Planning Commission will also consider a determination of exemption from CEQA.
PROJECT APPLICANT: Eddia Mirarooni, E. Crown Holdings, LLC

Recommendation: That the Planning Commission:
1. Conduct a public hearing and receive testimony on the project; and
2. Adopt the attached resolution conditionally approving the requested Development Plan Review and 66 in-lieu parking spaces.

REPORT SUMMARY

The proposed project involves an addition to the existing commercial building located at 246 North Canon Drive, which is intended to accommodate additional restaurant space at the subject property. The addition would consist of three stories at the back of the existing building, and results in the loss of 13 surface parking spaces. The proposal requires approval of a Development Plan Review and participation in the City's In-Lieu Parking District in order to provide the 68 parking spaces that would be required to serve the new addition, as well as offset the loss of surface parking. This report analyzes the project's compatibility with the surrounding area, the City's supply of public parking, and the policy considerations regarding the elimination of surface parking spaces. Staff's analysis concludes that approval of the project will be a beneficial addition to the City and will not result in any adverse impacts to the surrounding area, and that the request for in-lieu parking spaces is consistent with the intent of the in-lieu parking program. Accordingly, the recommendation in this report is for project approval.

Attachment(s):
A. Draft Resolution
B. Parking Study
C. Architectural Plans

Report Author and Contact Information:
Ryan Gohlich
(310) 285-1194
rgohlich@beverlyhills.org

BACKGROUND

File Date	3/12/2014
Application Complete	12/2/2014
Subdivision Deadline	N/A
CEQA Deadline	60 days from CEQA Determination
Permit Streamlining	2/9/2014
Applicant(s)	Eddia Mirarooni, E. Crown Holdings, LLC
Owner(s)	Eddia Mirarooni, E. Crown Holdings, LLC
Representative(s)	Hamid Gabbay
Prior PC Action	Approval of 32 in-lieu parking spaces for Mastro's Restaurant
Prior Council Action	None

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	246 North Canon Drive
Legal Description	Lots 5 and 6 in Block 12, City of Beverly Hills
Zoning District	C-3 Commercial
General Plan	Low-Density Commercial
Existing Land Use(s)	Commercial
Lot Dimensions & Area	142.5' x 100': 14,250 square feet
Year Built	1942
Historic Resource	The property is not listed on any local, state or federal inventory
Protected Trees/Grove	None

Adjacent Zoning and Land Uses

North	C-3 Commercial
South	C-3 Commercial
East	RMCP Multiple-Family Residential-Commercial Parking
West	C-3 Commercial

Circulation and Parking

Adjacent Street(s)	North Canon Drive
Adjacent Alleys	One-way 20' wide alley located at the rear of the property
Parkways & Sidewalks	12' parkway
Nearest Intersection	North Canon Drive and Dayton Way
Nearest Signalized	North Canon Drive and Dayton Way
Circulation Element	Local street
Average Daily Trips	Northbound: 6,900
	Southbound: 6,750

Neighborhood Character

The subject property is located in the City's Business Triangle on the east side of North Canon Drive, approximately mid-block between Dayton Way to the north and Clifton Way to the south. The Project Site is 100 feet wide and 142.5 feet deep for a total site area of 14,250 square feet (0.33 acres). General retail and office uses are located to the north and south of the Project Site. A residential senior home is located to the east on Crescent Drive and the Montage Hotel is located to the west of the subject property, along North Canon Drive. The AKA Serviced Residences are immediately east of the subject property. The Project Site is currently developed with a three-story commercial building that contains both restaurant and general office uses.

PROJECT DESCRIPTION

The proposed project consists of an addition to the rear of the existing three-story commercial building located on the subject property. The purpose of the addition is to accommodate new restaurant space within the subject property, with existing ground-floor retail space being converted to restaurant area, and new square footage being added at all three levels of the building for additional dining and back-of-house areas. The project includes the following components:

- 1,847 square feet of new dining and bar area
- 5,260 square feet of new back-of-house area
- Elimination of 13 surface parking spaces accessed via the alley
- 66 in-lieu parking spaces to accommodate new floor area and loss of surface spaces

Requested Permits

The applicant is seeking approval of a Development Plan Review and to participate in the City's In-Lieu Parking District to allow the additional floor area at the subject property. The Development Plan Review is required whenever a building's floor area is increased by 2,500 square feet or more. The in-lieu parking request results from the property's inability to provide additional parking spaces on-site, which are required as a result of the additional floor area and the loss of 13 surface parking spaces.

ZONING CODE[1] COMPLIANCE

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

Agency Review[2]

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

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

[2] Recommended conditions of approval by other departments are provided in the Analysis section of this report.

- TRANSPORTATION DIVISION

  The Transportation Division has reviewed the parking analysis submitted by the applicant's traffic engineer, and is in agreement with the methodology and findings of the report. Sufficient parking is available in nearby public parking facilities in order to accommodate the in-lieu parking request.

GENERAL PLAN[3] POLICIES

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

- 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 11.6 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.

- 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.

- Policy CIR 4.6 Parking Management. Implement parking management tools to meet short-term parking needs and maximum on-street parking turnover.

ENVIRONMENTAL ASSESSMENT

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines[4], and the environmental regulations of the City. The project qualifies for a categorical exemption pursuant to Section 15301 (Class 1) of the Guidelines. Specifically, the proposed project would result in an addition of less than 10,000 square feet to an existing commercial building. The alterations and additions to the existing building do not result in any significant environmental impacts, including traffic and parking, and are therefore exempt from further review under the provisions of CEQA.

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

[4] The CEQA Guidelines and Statue are available online at http://ceres.ca.gov/ceqa/guidelines

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	12/4/2014	7 Days
Newspaper Notice	N/A	N/A	N/A	N/A
Mailed Notice (Owners & Occupants – 500' Radius)	10 Days	12/1/2014	12/1/2014	10 Days
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	12/4/2014	7 Days

Public Comment

The City has not received any comments or letters concerning the project as of the writing of this report.

ANALYSIS[5]

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

The required findings for the Development Plan Review and In-Lieu Parking relate to minimizing impacts to the surrounding area and public welfare. Therefore, the following analysis is provided to help guide the Commission's review of the project.

Streetscape. The existing building on the subject property is three stories in height, with portions that step back away from North Canon Drive. Although the proposed addition would be three stories in height and would align with the existing building, the addition would be located toward the rear of the building, adjacent to the alley and away from the street. Due to its location, the addition will be screened from the street and will not alter the building's existing appearance as viewed from North Canon Drive. Because the addition will primarily be visible from the rear alley, the project is not anticipated to adversely impact the streetscape within the Business Triangle.

Traffic. The City's Traffic Engineer reviewed the proposal to determine whether a full traffic study should be prepared for the project. Based on the limited amount of square footage proposed to be added to the building, as well as the off-peak traffic hours that restaurants tend to operate at, the City's Traffic Engineer concluded that the project's traffic would not result in any impacts, and is limited such that a full traffic study is not required for the project.

Parking Availability. In order to assess the availability of parking spaces within the City's parking facilities, a parking study was prepared by the applicant's traffic engineer to analyze parking facilities within 300 feet of the project site. The study identified two garages within the 300' radius, one at 221 North Crescent Drive, a second located at 241 North Canon Drive (Montage). Garage usage was surveyed on Saturday, September 6, 2014 and Tuesday,

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

September 9, 2014. Based on the surveys, the highest level of parking demand occurred on Tuesday between 1:00 PM and 1:30 PM, with 83% of the combined parking spaces being utilized, and 207 spaces remaining available. Based on this data, the two adjacent garages have sufficient supply to accommodate the proposed restaurant addition/expansion without adversely impacting the City's facilities. Additionally, the restaurant is expected to experience greater business activity in the evenings, which is when the greatest parking supply exists. Finally, many of the restaurant's patrons will utilize its valet service, which takes advantage of both private and public parking spaces, thereby distributing the overall parking demand. For these reasons, the request for in-lieu parking spaces will not be detrimental to the City's parking supply or operations.

In-Lieu Parking Policies. As part of the proposed project, 13 on-site parking spaces will be eliminated to make way for the addition to the building. Previously, concerns have been raised regarding the loss of existing parking spaces without their replacement. In this particular case, the spaces that would be lost are located off the alley, and are not easily accessible. It should also be noted that the original intent of the in-lieu parking program was to spur development in the Business Triangle. To date, the in-lieu parking program has proven successful, and the current proposal appears to align with the program's original intent, despite the loss of parking spaces that it triggers. Although the loss of parking spaces will not be detrimental to the City's overall parking supply, the Planning Commission may wish to discuss the concept of eliminating parking spaces, and whether alternative options should be pursued.

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
• Increased tax revenue • Sufficient parking supply to accommodate project • Addition is located toward the rear of the property • Additional contributions to the in-lieu parking fund	• Loss of 13 on-site parking spaces • Increased demand on parking facilities

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and adopt the attached resolution conditionally approving the requested Development Plan Review and participation in the City's In-Lieu Parking District.

Alternatively, the Planning Commission may consider the following actions:

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

Report Reviewed By:

Ryan Gohlich, Senior Planner

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ATTACHMENT A

DRAFT RESOLUTION

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A DEVELOPMENT PLAN REVIEW AND PARTICIPATION IN THE CITY'S IN-LIEU PARKING DISTRICT TO ALLOW A 7,107 SQUARE FOOT ADDITION AND 66 IN-LIEU PARKING SPACES AT THE PROPERTY LOCATED AT 246 NORTH CANON DRIVE.

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

Section 1. Eddia Mirarooni, on behalf of E. Crown Holdings, LLC (the "Applicant"), has submitted an application for a Development Plan Review and participation in the City's In-Lieu Parking District to allow an approximately 7,107 square foot addition to the existing commercial building located at 246 North Canon Drive (the "Project"). The Project requires a Development Plan Review for the proposed 7,107 square foot addition, as well as 66 in-lieu parking spaces to accommodate the addition and a loss of 13 on-site parking spaces. The Project includes the following components:

- 1,847 square feet of new dining and bar area;
- 5,260 square feet of new back-of-house area;
- Elimination of 13 surface parking spaces accessed via the alley; and
- 66 in-lieu parking spaces to accommodate new floor area and the loss of surface spaces.

Section 2. The Project has been environmentally reviewed pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*), and the City's environmental guidelines. A Class 1(e) Categorical Exemption has been issued pursuant to CEQA Guidelines Section 15301 (existing facilities). Specifically, a Class 1 exemption applies to additions that do not exceed 10,000 square feet. The proposed addition is less than 10,000 square feet, and is therefore eligible for the Categorical Exemption.

Section 3. Notice of the Project and public hearing was mailed on December 1, 2014 to all property owners and residential occupants within a 300-foot radius of the Project, and to all single-family zoned properties within a 500-foot radius of the exterior boundaries of the Project. On December 11, 2014, the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

Section 4. In considering the application for a Development Plan Review, the Planning Commission considered whether it could make the following findings in support of the project:

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; and

5. The proposed plan will not be detrimental to the public health, safety or general welfare.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Development Plan Review:

1. The Project meets all zoning requirements and has been determined to be consistent with the requirements and guidance of the General Plan for commercial uses located within the Business Triangle. The subject site is surrounded primarily by commercial development, and the proposed project would therefore be a harmonious addition to the area. Additionally, the Project is not located within any specific plans adopted for the area.

2. The Project is consistent with the development standards established in the City's Municipal Code and General Plan. Existing development along North Canon Drive consists of commercial buildings that are typically between one and three stories in height, which primarily contain restaurant and retail uses. Construction of the Project, which is a restaurant use consistent with surrounding

uses, is not anticipated to adversely affect existing and anticipated development on the adjacent, commercially-zoned properties, and is therefore considered to be a harmonious addition that would help to further enliven North Canon Drive.

3. As proposed, the Project meets all zoning requirements, including use, configuration, location, density, and height. Additionally, the subject site is located within the Business Triangle, an area intended for restaurant and retail development. Based on the Project's location and adherence to the Beverly Hills Municipal Code, the project is not expected to significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

4. Traffic and parking associated with the Project was assessed in order to identify any potential impacts that might be generated by vehicles associated with the Project. The City's assessment concluded that, based on existing traffic volumes and infrastructure capacities, the Project will not generate any significant impacts related to traffic. Furthermore, the parking assessment studied two public parking garages within 300' of the Project site, and demonstrated that sufficient parking capacity exists in order to accommodate the Project's in-lieu parking request without causing a parking shortfall. Therefore, the Project is not anticipated to result in any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

5. The Project has been designed to be consistent with surrounding development, and is compatible with the existing restaurant and retail uses along North Canon Drive. Because the Project has been designed as a harmonious addition

to the existing commercial district, and based on the discussions and analysis in Findings 1-4 above, the Project is not anticipated to be detrimental to the public health, safety, or general welfare.

Section 6. In considering the request to participate in the City's In-Lieu Parking District, the Planning Commission considered whether it could make the following findings in support of the project:

1. Participation in the in-lieu parking district, as approved, will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;

2. Participation in the in-lieu parking district, as approved, will not create any significantly adverse traffic safety impacts, pedestrian-vehicle conflicts, or parking impacts; and

3. Participation in the in-lieu parking district will not be detrimental to the public health, safety and welfare.

Section 7. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the request to participate in the City's In-Lieu Parking District:

1. Although approval of the in-lieu parking request would generate additional demand on the City's existing parking facilities, the parking assessment prepared in conjunction with the Project indicates that a sufficient number of parking spaces are available within two nearby public parking structures to accommodate the

requested 66 in-lieu parking spaces. The additional demand of 66 vehicles at the subject parking facilities would not result in a parking shortfall, and would therefore not adversely affect existing and anticipated development in the vicinity. In fact, approval of the in-lieu parking spaces facilitates the enhancement of an existing commercial property, which will be a harmonious and beneficial addition to the Canon Drive restaurant and retail district.

2. The City's existing public parking facilities and circulation patterns will not be modified as a result of the Project, and are already designed to limit traffic safety impacts and pedestrian-vehicle conflicts. Additionally, based on current usage patterns, the requested in-lieu parking spaces can be accommodated within existing public parking facilities without adversely impacting the operation of such existing parking facilities. Therefore, participation in the in-lieu parking district is not anticipated to result in traffic safety impacts, pedestrian-vehicle conflicts, or parking impacts.

3. The Project involves a limited addition of 7,107 square feet to an existing commercial building resulting in the need for 66 in-lieu parking spaces. The addition allows expansion of restaurant uses along North Canon Drive, which will further contribute to the restaurant and retail environment within the vicinity of the project site. The in-lieu parking spaces can be accommodated within existing public parking facilities without adversely impacting the operation of such existing facilities. As a result, the Project is not anticipated to be detrimental to the public health, safety and welfare.

Section 8. Based on the foregoing, the Planning Commission hereby approves the Development Plan Review and participation in the City's In-Lieu Parking District, subject to the following conditions:

1. The City expressly reserves jurisdiction relative to traffic and parking issues. In the event the Director determines that operation of the use at this site is having unanticipated traffic and parking impacts, the Director shall require the Applicant to pay for a traffic and parking demand analysis. After reviewing the traffic and parking demand analysis, if, in the opinion of the Director, the traffic and parking issues merit review by the Planning Commission, the Director shall schedule a hearing in front of the Planning Commission in accordance with the provisions of Title 10 of the Beverly Hills Municipal Code. The Planning Commission shall conduct a noticed public hearing regarding the parking and traffic issues, and may impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the proposed Project, and the Applicant shall forthwith comply with any additional conditions at its sole expense.

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

3. RECORDATION. The resolution approving a Development Plan Review and participation in the City's In-Lieu Parking District shall not become effective until the owner of the Project site records a covenant, satisfactory in form

and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of the resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Project shall be **null and void** and of no further effect. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the Applicant, grant a waiver from the 60-day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state, or local law that would affect the Project.

4. EXPIRATION. Development Plan Review and In-Lieu Parking: The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution.

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

6. This approval is for those plans submitted to the Planning Commission on December 11, 2014, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans, except as otherwise specified in these conditions of approval.

7. Minor amendments to the plans, including minor changes to the number of in-lieu parking spaces required, shall be subject to approval by the Director

of Community Development. A significant change to the approved Project shall be subject to Planning Commission Review. Construction shall be in conformance with the plans approved herein or as modified by the Planning Commission or Director of Community Development.

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

9. APPROVAL RUNS WITH LAND. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 9. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: December 11, 2014

Howard S. Fisher
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:

Jay Trevino, AICP
Interim City Planner RG.

ATTACHMENT B

PARKING STUDY

KOA CORPORATION
PLANNING & ENGINEERING

1100 Corporate Center Dr., Suite 201
Monterey Park, CA 91754
t: 323-260-4703 f: 323-260-4705
www.koacorporation.com

TECHNICAL MEMORANDUM

To: Eddia Mirharooni – Brickstar Capital, LLC

From: Bruce Chow

Date: November 26, 2014

Subject: Project Parking Analysis Update – Restaurant and Commercial Additions, 238 North Canon Drive, Beverly Hills
KOA Project JB41157

This parking study report partially serves as an update to the February 13, 2013 study conducted for a previously-proposed expansion of an existing restaurant at the Project site, located at 246 North Canon Drive in the City of Beverly Hills.

KOA Corporation conducted the required parking study while under contract with Brickstar Capital, LLC. The project update entails the addition of 1,847 square feet of dining area and 5,260 square feet of commercial area. The addition would include conversion of the existing commercial retail space on the ground floor into restaurant space.

Based on City Code requirements, 66 new in-lieu parking spaces would be required due to the proposed additions and the current parking provisions for the site. An in-lieu parking district has been established by the City in the local area.

Summary

The parking analysis for the proposed Project considered the potential impacts on area parking supplies due to increased demand for public parking and intensified valet operations under the proposed restaurant addition. Based on the area parking demand collected and analyzed, the additional parking demand from the Project could be accommodated in public parking structures within the parking district, and large parking surpluses would remain in those locations in the post-Project period.

The proposed restaurant would open from 10:00 a.m. to 10:00 p.m. on weekdays and weekends.

The study is discussed in more detail in the sections below. Recommendations are provided at the end of the report.

Project Description and Methodology

The proposed Project would provide for the addition of restaurant dining area by a total of 1,847 square feet and 5,260 square feet of commercial area.

The addition of 1,847 square feet of restaurant dining area and 5,260 square feet of commercial area create a supply deficit for the building that exceeds the off-street parking supply and the off-site supply provided by an existing parking covenant.

KOA discussed the proposed Project with the City of Beverly Hills planning staff to define the major assumptions that would be used for the required parking analysis updates. In order to determine whether the area parking supply is adequate for the absorption of parking demand that would be generated by the proposed Project, the study area was defined to include parking supplies located generally within a 300-foot radius of the proposed restaurant site.

The parking demand for the Project was calculated based on the addition of dining and commercial floor areas and City Code requirements. The ability of the two nearby public parking structures to absorb the overflow demand was examined.

Parking surveys were conducted on Saturday, September 6, 2014 and Tuesday, September 9, 2014.

Overall, the surveys provided data for one weekday and one Saturday between the hours of 10:00 a.m. to 10:00 p.m. The data totals were used to find the average parking demand by location within the defined study area for each of those days.

Project Parking Requirements and Supply

Parking Code

The City of Beverly Hills Municipal Code, within section 10-3-3301, established an in-lieu parking district in the local area:

> *A. This article establishes an in-lieu parking district for any commercially zoned property located in the area bounded by the centerlines of the following streets: Wilshire Boulevard, Santa Monica Boulevard North Roadway, and Crescent Drive.*
>
> *B. Those properties which are zoned for commercial use and which comply with all the requirements of this article may participate in the in-lieu parking district and be permitted to satisfy all or a part of the requirements for parking spaces by the payment to the city of an in-lieu fee. (Ord. 76-O-1608, eff. 6-17-1976; amd. Ord. 94-O-2206, eff. 8-5-1994.)*

The applicable Code requirements for off-street parking, for the restaurant and commercial use, are described in Section 10-3-2730 of the Municipal Code:

- *Restaurant: 1 space per 45 square feet of dining and bar floor area for the first 9,000 square feet of such area and 1 space per 65 square feet of dining and bar floor area in excess of 9,000 square feet.*
- *Commercial: 1 space per 350 square feet of floor area.*

The existing parking covenant for the Project site is provided within Attachment C.

Post-Project Requirements

Based on the City Code requirements of one space per 45 square feet of floor area under 9,000 square feet, the restaurant dining area addition of 1,847 square feet would require 41 spaces. The commercial addition of 5,260 square feet would require 15 spaces. The total restaurant and commercial addition would require 56 spaces.

The existing mezzanine office space of approximately 1,000 square feet would be removed as part of the project which will reduce the parking requirement by three spaces. Therefore, the net parking required with the restaurant and commercial additions, and mezzanine removal would be 53 spaces.

The restaurant and commercial additions would increase the demand for both area public parking and valet operations and related off-site vehicle storage. The project requires 53 spaces; however 13 of the 19 on-site spaces would be removed as part of the project.

Therefore, a total of 66 (56 minus 3 plus 13) in-lieu parking spaces would need to be approved by the City for the restaurant and commercial additions to take place. These spaces could be provided within the 221 North Crescent Drive parking structure and the Montage parking structure (241 N Canon Drive – 242 N. Beverly Drive). Use of both the 221 North Crescent Drive and Montage parking structures would not cause any adverse parking supply impacts, based on the parking availability data from the area parking study.

Therefore, due to the lack of parking impacts that would be caused by the Project, specific mitigation measures are not recommended. The proposed project can continue to use the area public parking structures for valet parking operations in the post-Project period, and other privately-operated lots as desired by the owner, and area parking supply surpluses would remain. Data from the parking analysis are discussed below.

Existing Area Parking Conditions

An overview of the existing conditions parking survey, as conducted within a defined study area, is provided below. From the collected supply and demand survey data, availability of parking within the area was calculated. Data used in the parking analysis pertained to regular parking spaces for the parking structures.

Survey Area

The following self-park public parking structures were included in the parking survey, as they are located within the 300-foot analysis radius from the Project site:

- *221 North Crescent Drive (629 spaces)* – This is a subterranean structure that provides one hour free parking daily from 6:00 a.m. to 2:00 a.m.
- *Montage Parking Structure (596 spaces)* – This is a subterranean structure that provides 24 hour parking with free parking during the first two hours.

Figure 1 within Attachment A to this document illustrates the survey area used for the Project parking analysis.

Available Area Parking Supply

An overview of the available parking supplies within the defined study area for off-street pubic parking areas are discussed within this section. The existing parking data includes a summary of one weekday and one Saturday. The parking availability was calculated based on the survey periods, during the overall timeframe of 10:00 a.m. to 10:00 p.m.

Existing Off-Street Public Parking Areas

The weekday parking structure survey data is summarized within Table 1 and the highest parking availability, when analyzed as a percentage of available supply, occurs between 9:30 p.m. and 10:00 p.m. at 72%, when 879 spaces are available. The lowest parking availability occurs between 1:00 p.m. and 1:30 p.m. at 17%, when 207 spaces are available.

Table 2 summarizes the Saturday parking structure survey data. The highest parking availability occurs between 9:30 p.m. and 10:00 p.m. at 72%, when 882 spaces are available. The lowest parking availability occurs between 1:00 p.m. and 1:30 p.m. at 53% available, which equates to 653 parking spaces available.

Recommended Parking Operations Plan

The parking study analysis has identified adequate public parking supply within 300 feet of the Project site, but a sizeable number of restaurant customers will continue to prefer the use of the valet service. The nearest public parking structures have amply supply to provide for the in-lieu parking needs of the proposed Project.

The additional parking demand created by the Project would be absorbed by available parking supplies in the nearby public parking structures, without adverse impacts to area public parking supplies.

A total of 66 new in-lieu parking spaces would need to be approved by the City for the restaurant and commercial additions to take place. These spaces could be provided within any of the two parking structures surveyed for the Project. Use of only the Montage parking structure would not cause any adverse parking supply impacts, based on the parking availability data from the area parking study.

A search for dedicated parking supply within privately-operated lots under a new or revised parking covenant is not necessary for the Project, due to the large parking supply surpluses identified within the area parking structures. The Project owner can locate and secure additional parking supplies as needed for efficient valet parking operations, but such acquisitions would not be necessary as Project parking mitigation measures.

Table 1 – Available Weekday Parking in Public Structures

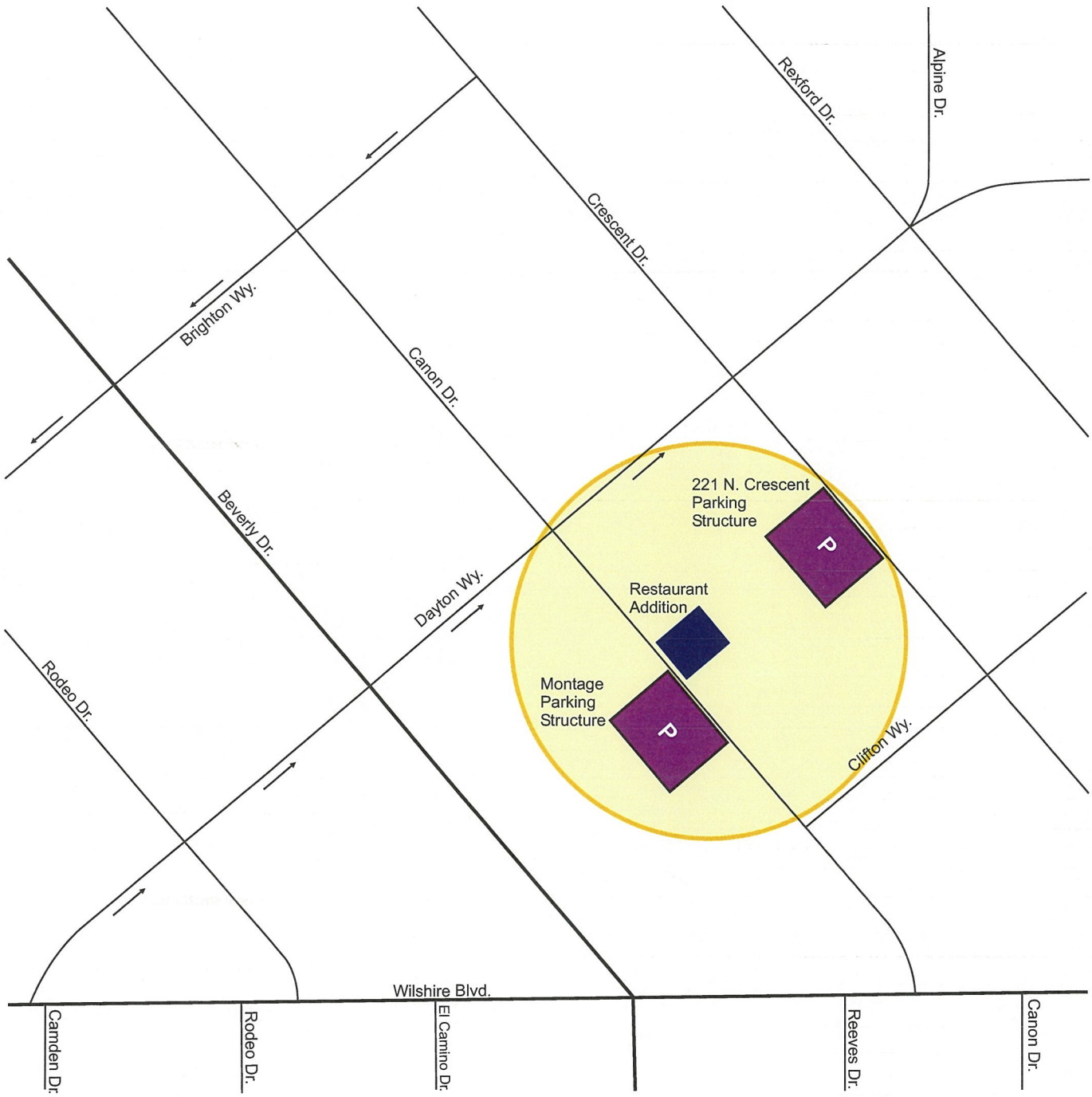
	221 North Crescent Drive Structure	Montage Hotel Parking Structure	TOTAL AVAILABLE	PERCENT AVAILABLE
Available Spaces	629	596	1,225	
10:00-10:30	90	250	340	28%
10:30-11:00	74		324	26%
11:00-11:30	70	242	312	25%
11:30-12:00	54		296	24%
12:00-12:30	33	215	248	20%
12:30-1:00	34		249	20%
1:00-1:30	28	179	207	17%
1:30-2:00	36		215	18%
2:00-2:30	48	165	213	17%
2:30-3:00	56		221	18%
3:00-3:30	79	184	263	21%
3:30-4:00	108		292	24%
4:00-4:30	121	232	353	29%
4:30-5:00	135		367	30%
5:00-5:30	182	264	446	36%
5:30-6:00	239		503	41%
6:00-6:30	268	298	566	46%
6:30-7:00	287		585	48%
7:00-7:30	308	357	665	54%
7:30-8:00	355		712	58%
8:00-8:30	381	419	800	65%
8:30-9:00	393		812	66%
9:00-9:30	409	463	872	71%
9:30-10:00	416		879	72%

Table 2 – Available Saturday Parking in Public Structures

	221 North Crescent Drive Structure	Montage Hotel Parking Structure	TOTAL AVAILABLE	PERCENT AVAILABLE
Available Spaces	629	596	1,225	
10:00-10:30	310	475	785	64%
10:30-11:00	273		748	61%
11:00-11:30	274	455	729	60%
11:30-12:00	267		722	59%
12:00-12:30	262	415	677	55%
12:30-1:00	263		678	55%
1:00-1:30	261	392	653	53%
1:30-2:00	264		656	54%
2:00-2:30	263	420	683	56%
2:30-3:00	284		704	57%
3:00-3:30	289	430	719	59%
3:30-4:00	299		729	60%
4:00-4:30	292	452	744	61%
4:30-5:00	292		744	61%
5:00-5:30	293	443	736	60%
5:30-6:00	304		747	61%
6:00-6:30	318	451	769	63%
6:30-7:00	360		811	66%
7:00-7:30	390	455	845	69%
7:30-8:00	408		863	70%
8:00-8:30	419	457	876	72%
8:30-9:00	414		871	71%
9:00-9:30	415	464	879	72%
9:30-10:00	418		882	72%

KOA CORPORATION
PLANNING & ENGINEERING

ATTACHMENT A –
STUDY AREA



LEGEND

P Parking Structure Survey Location

N

Not to Scale

KOA CORPORATION
PLANNING & ENGINEERING

238 N. Cannon Restaurant Addition Parking Analysis, Beverly Hills Figure 1

Project Parking Survey Locations

KOA CORPORATION
PLANNING & ENGINEERING

ATTACHMENT B –
PARKING SURVEY SUMMARY SHEETS

Prepared by National Data & Surveying Services

Parking Study

Location: 221 N Crescent Dr
City: Beverly Hills

Day: Tuesday
Date: 9/9/2014

TIME	221 N Crescent Dr Parking Study							TOTALS
	Regular	♿	1 Hour	Electric Vehicle	Whole Foods Delivery Pick Up	Unmarked w/ Valet	City Vehicle EV	
Spaces	**629**	**15**	**57**	**4**	**3**		**1**	**709**
10:00 AM	539	1	27	2	1	48	0	**618**
10:30 AM	555	2	38	2	0	49	0	**646**
11:00 AM	559	2	38	2	2	49	0	**652**
11:30 AM	575	2	37	2	1	49	0	**666**
12:00 PM	596	2	33	3	2	50	0	**686**
12:30 PM	595	3	42	2	2	50	0	**694**
1:00 PM	601	3	39	2	3	50	0	**698**
1:30 PM	593	3	45	3	3	49	0	**696**
2:00 PM	581	4	46	3	3	50	0	**687**
2:30 PM	573	3	43	2	2	50	0	**673**
3:00 PM	550	3	52	2	2	50	0	**659**
3:30 PM	521	2	50	4	0	50	0	**627**
4:00 PM	508	2	56	4	2	50	0	**622**
4:30 PM	494	2	49	4	3	50	0	**602**
5:00 PM	447	2	52	3	3	50	0	**557**
5:30 PM	390	2	32	2	3	50	0	**479**
6:00 PM	361	2	23	1	1	50	0	**438**
6:30 PM	342	2	18	1	1	50	0	**414**
7:00 PM	321	2	23	1	2	49	0	**398**
7:30 PM	274	2	21	0	1	49	0	**347**
8:00 PM	248	2	19	0	0	48	0	**317**
8:30 PM	236	2	20	0	0	48	0	**306**
9:00 PM	220	2	18	0	1	48	0	**289**
9:30 PM	213	2	17	0	1	48	0	**281**

Prepared by National Data & Surveying Services

Parking Study

Location: 221 N Crescent Dr
City: Beverly Hills

Day: Saturday
Date: 9/6/2014

TIME	221 N Crescent Dr Parking Study							TOTALS
	Regular	♿	1 Hour	Electric Vehicle	Whole Foods Delivery Pick Up	Unmarked w/ Valet	City Vehicle EV	
Spaces	**629**	**15**	**57**	**4**	**3**		**1**	**709**
10:00 AM	319	2	9	1	0	48	0	**379**
10:30 AM	356	2	5	0	1	48	0	**412**
11:00 AM	355	2	7	0	1	48	0	**413**
11:30 AM	362	3	9	0	0	48	0	**422**
12:00 PM	367	3	9	0	0	48	0	**427**
12:30 PM	366	2	8	0	2	48	0	**426**
1:00 PM	368	2	7	0	0	48	0	**425**
1:30 PM	365	3	10	1	1	48	0	**428**
2:00 PM	366	3	15	1	2	48	0	**435**
2:30 PM	345	3	13	1	1	49	0	**412**
3:00 PM	340	2	16	0	3	48	0	**409**
3:30 PM	330	2	16	0	2	48	0	**398**
4:00 PM	337	2	16	0	3	48	0	**406**
4:30 PM	337	2	20	1	1	48	0	**409**
5:00 PM	336	2	19	1	2	48	0	**408**
5:30 PM	325	2	18	1	1	48	0	**395**
6:00 PM	311	2	15	0	1	48	0	**377**
6:30 PM	269	2	20	0	2	48	0	**341**
7:00 PM	239	2	22	0	2	48	0	**313**
7:30 PM	221	2	24	0	2	48	0	**297**
8:00 PM	210	1	25	0	2	48	0	**286**
8:30 PM	215	2	27	0	1	48	0	**293**
9:00 PM	214	2	26	0	1	48	0	**291**
9:30 PM	211	2	27	0	1	48	0	**289**

Prepared by National Data & Surveying Services

Parking Study

Location: Montage Hotel Parking Study
(241 N Canon Dr - 242 N Beverly Dr)
City: Beverly Hills

Tuesday
9/9/2014

TIME	MONTAGE HOTEL PARKING STUDY				TOTALS
	Public Regular	Public ♿	Public Reserved	Public "Electric Vehicle Only"	
Spaces	**596**	**10**	**37**	**4**	**647**
10:00 AM	346	6	24	4	**380**
11:00 AM	354	6	21	4	**385**
12:00 PM	381	5	28	3	**417**
1:00 PM	417	5	18	4	**444**
2:00 PM	431	5	20	4	**460**
3:00 PM	412	5	17	3	**437**
4:00 PM	364	5	17	3	**389**
5:00 PM	332	3	16	2	**353**
6:00 PM	298	3	19	2	**322**
7:00 PM	239	1	8	1	**249**
8:00 PM	177	2	6	1	**186**
9:00 PM	133	1	5	1	**140**

Prepared by National Data & Surveying Services

Parking Study

Location: Montage Hotel Parking Study
(241 N Canon Dr - 242 N Beverly Dr)
City: Beverly Hills

Saturday
9/6/2014

TIME	MONTAGE HOTEL PARKING STUDY				TOTALS
	Public Regular	Public ♿	Public Reserved	Public "Electric Vehicle Only"	
Spaces	**596**	**10**	**37**	**4**	**859**
10:00 AM	121	1	3	1	**126**
11:00 AM	141	1	2	2	**146**
12:00 PM	181	1	2	2	**186**
1:00 PM	204	1	3	1	**209**
2:00 PM	176	2	4	2	**184**
3:00 PM	166	3	3	1	**173**
4:00 PM	144	3	6	1	**154**
5:00 PM	153	3	6	1	**163**
6:00 PM	145	2	3	1	**151**
7:00 PM	141	3	3	2	**149**
8:00 PM	139	2	2	2	**145**
9:00 PM	132	1	2	2	**137**

KOA CORPORATION
PLANNING & ENGINEERING

ATTACHMENT C –
EXISTING PARKING CONVENANT FOR MASTRO'S SITE

#6

When Recorded Mail To:
City Clerk
City of Beverly Hills
450 N. Crescent Drive
Beverly Hills, California

REC. FEE REQUESTED BY

2796

RECORDED IN OFFICIAL RECORDS OF LOS ANGELES COUNTY, CALIF.
51 Min. Past 10 A.M. MAY 26 1967
RAY E. LEE, County Recorder

FEE $2.80 2 E

MAY 26 '67

COVENANT AND AGREEMENT REGARDING PARKING

WHEREAS, the undersigned ARTHUR LAWRENCE and TOBY LAWRENCE hereby warrant and represent that they are the record owners of the following described real property situated in the City of Beverly Hills, County of Los Angeles, State of California, to wit:

Lots 5 and 6 in Block 12 of Beverly, City of Beverly Hills, County of Los Angeles, State of California, as per map recorded in Book 11, page 94 of Maps, in the office of the County Recorder of said County.

The street address of said property is 242 N. Canon Drive, Beverly Hills, California.

ARTHUR LAWRENCE and TOBY LAWRENCE covenant and agree that this Covenant and Agreement Regarding Parking may be recorded by the City of Beverly Hills against the aforesaid real property commonly known as 242 N. Canon Drive, Beverly Hills, California.

ARTHUR LAWRENCE and TOBY LAWRENCE further covenant and agree with the City of Beverly Hills that should the parking now available for The Bistro, located at 242 N. Canon Drive, on the real property located on Crescent Drive immediately behind the real property commonly known as 202 N. Canon Drive cease to be available for The Bistro, then ARTHUR LAWRENCE and TOBY LAWRENCE consent and agree that failure to provide such parking for The Bistro shall result in revocation, without further action by the City of Beverly Hills, of the Certificate of Occupancy and Tenancy for 265 people for The Bistro, unless equivalent alternative parking is provided for The Bistro in

2796

conformance with the provisions of the Beverly Hills City Municipal Code.

DATED: May 5, 1967.

Approved for Content

Asst. Director, Building & Planning

Approved for Form

City Attorney Date 5-10-67

ARTHUR LAWRENCE

TOBY LAWRENCE

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } SS

On May 5, 1967, before me, the undersigned, a Notary Public in and for said County and State, personally appeared ARTHUR LAWRENCE and TOBY LAWRENCE, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Witness my hand and official seal.

OFFICIAL SEAL
NELLITA SEABOURNE
NOTARY PUBLIC-CALIFORNIA
PRINCIPAL OFFICE IN
LOS ANGELES COUNTY

Notary Public in and for said County and State

NELLITA SEABOURNE
My Commission Expires June 19, 1970

MAY 26 '67

2786

86 989892

#10

RECORDING REQUESTED BY AND MAIL TO
NAME Southland Title
STREET 300 E Magnolia Ste 600
CITY Burbank Ca. 91502

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
31 MIN. PAST 4 P.M. AUG 1 1986

PARKING COVENANTS AND AGREEMENT

SECURED BY DEED OF TRUST

FEE $22

This Agreement is executed by Three Thirteen-Stratford, a California general partnership, hereinafter referred to as "Owner," for the benefit of California Federal Savings and Loan Association, its successors and assigns, hereafter referred to as "Cal Fed."

WHEREAS, the real property described below is owned by the Owner; and

WHEREAS, in 1967, Owner executed certain Covenants which were recorded against Parcel 3 for the benefit of Parcel 1 pursuant to which off-site parking spaces were covenanted to Parcel 1 to comply with the parking requirements of the City of Beverly Hills for special use of a portion of Parcel 1. True and correct copies of these Covenants are attached herewith as Exhibits A, B, C, and D, and are incorporated herein as though fully set forth. These Covenants are more clearly identified as follows:

A) Covenant (Parking Spaces), recorded on May 16, 1967, in Book M2564, pages 770 and 771;

B) Covenant (Attendant Parking), recorded on May 26, 1967, in Book M2564, Pages 766 and 767;

C) Covenant and Agreement Regarding Parking, recorded on May 26, 1967, in Book M2564, Pages 768 and 769; and

D) Covenant (Parking Spaces), recorded on June 26, 1967, in Book M2589, Pages 125 and 126.

WHEREAS, Cal Fed is the owner and holder of that certain Deed of Trust, recorded August 1, 1979 as Instrument No. 79-848431, in the Official Records of Los Angeles County, California, creating a lien against, among other things, certain real property situated in the County of Los Angeles, State of California, and more particularly described as follows:

Parcel 1

Lots 5 and 6 in Block 12 of Beverly, City of Beverly Hills, County of Los Angeles, State of California, as per map recorded in Book 11, Page 94 of Maps in the office of the County Recorder of said County. Except the southwesterly 10 feet thereof.

Parcel 1 is commonly known as 238-242 N. Canon Drive, Beverly Hills, California.

Parcel 2

Lot 8 and the northerly forty feet of Lot 9 in Block 12 of Beverly, City of Beverly Hills, County of Los Angeles, State of California, as per map recorded in Book 11, Page 94 of

Maps in the office of the County Recorder of said County. Except the southwesterly 10 feet thereof.

Parcel 2 is commonly known as 220-222 N. Canon Drive, Beverly Hills, California.

Parcel 3

Lots 13, 14 and 15 in Block 12 of Beverly, City of Beverly Hills, County of Los Angeles, State of California, as per map recorded in Book 11, Page 94 of Maps in the office of the County Recorder of said County.

Parcel 3 is commonly known as 201 N. Crescent Drive, Beverly Hills, California.

WHEREAS, the Owner has requested Cal Fed to release Parcels 2 and 3 from the lien of the above-described Deed of Trust; and

WHEREAS, concurrently with the execution of this Agreement, Cal Fed has agreed to release and reconvey Parcels 2 and 3 from the lien of the above Deed of Trust but only on the condition that for such release, the Owner execute this Agreement, to ensure that so long as Cal Fed, its successors or assigns holds a Deed of Trust encumbering Parcel 1 or has any other legal or equitable ownership or rights in and to Parcel 1, the Owner will provide and maintain parking spaces on Parcel 3 and for the use and benefit of the real property described as Parcel 1 all as more fully set forth in this Agreement and in the attached Covenants with the City of Beverly Hills, California.

NOW, THEREFORE, in consideration of the foregoing, and for other valuable consideration, the receipt of which is hereby acknowledged, the Owner covenants, promises and agrees with Cal Fed, its successors and assigns as follows:

1. The undersigned shall provide and maintain or cause to provide and maintain attendant parking (i.e., parking maintained by an adequate number of attendants) of not less than ninety (90) automobile parking spaces on Parcel 3 of which seventy-six (76) shall be for the benefit of Parcel 1. The parking spaces shall at all times satisfy all the requirements of the Municipal Code of the City of Beverly Hills.

2. All of said Parcel 3 shall be used only for the parking of automobiles and no business endeavors (other than a parking lot operation) and no structures or improvements (except a parking lot sign and a structure to shelter a parking lot attendant) shall be allowed on Parcel 3. Notwithstanding the foregoing, in the event Owner desires to construct an office building or other improvements on Parcel 3, Cal Fed agrees that it will permit Owner to substitute fully equivalent alternative parking spaces for the benefit of Parcel 1 during the period of time improvements are being constructed on Parcel 3, provided (a) prior to the commencement of construction, Owner has received the requisite approvals from the City of Beverly Hills and (b) the Senior Loan Committee of Cal Fed has consented in writing to the alternate parking facilities.

3. The title to and the right to use Parcel 3 is and shall be subservient at all times to the parking rights of Parcel 1.

4. The due performance of this Agreement is secured by that certain Deed of Trust recorded August 1, 1979 as Instrument No. 79-848431, in the Official Records of

86- 989892

Tandem OK
attendant

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

City Clerk
City of Beverly Hills
450 North Crescent Drive
Beverly Hills, California

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COVENANT
(Attendant Parking)

WHEREAS, the undersigned, (insert names of all record owners)

ARTHUR G. LAWRENCE and TOBY S. LAWRENCE

hereby represents and warrants that it is the record owner of the following described real property situated in the City of Beverly Hills, County of Los Angeles, State of California (insert legal description and street address of the property on which the parking is to be provided):

Lots 13, 14 and 15 in Block 12 of Beverly, City of Beverly Hills, County of Los Angeles, State of California, as per map recorded in Book 11, page 94 of Maps in the office of the County Recorder of said County. The street address of said property is 201 North Crescent Drive, Beverly Hills, California,

(herein called the "Real Property"):

WHEREAS, the City of Beverly Hills has required that there be provided and maintained, a specified number of parking spaces in connection with the use of the following described real property situated in said City (if the same as above, so indicate; if not, insert legal description and street address):

Lots 5 and 6 in Block 12 of Beverly, City of Beverly Hills, County of Los Angeles, State of California, as per map recorded in Book 11, page 94 of Maps in the office of the County Recorder of said County. The street address of said property is 242 North Canon Drive, Beverly Hills, California.

WHEREAS, the said City, in the computation of the number of spaces, will allow the use of tandem parking spaces upon condition that attendant parking is provided and maintained.

NOW, THEREFORE, in consideration of the foregoing, the undersigned covenants, promises, and agrees with said City, for the benefit of said City, its public property, and each of herein described parcels of real property, as follows:

The undersigned shall provide and maintain attendant parking (i.e., parking supervised by an adequate number of attendants) on the Real Property

B & P Form No. 8 - 9.7.61

Lin'l Rounds Stolen

at all times during the normal operation of the use or uses for which such parking is provided.

The undersigned acknowledges that failure to provide and maintain such attendant parking may result in the revocation of the Certificates of Occupancy for such uses, in addition to other prescribed penalties and remedies.

Whenever the context hereof requires, the neuter shall include the masculine or feminine, or both, and the singular shall include the plural. It is the intention hereof that this shall constitute a covenant running with the land, jointly and severally binding upon the undersigned and each of its heirs, representatives, successors, and assigns.

DATED: April 14, 1967.

Approved for Content

Asst. Director, Building & Planning

Approved for recordation:
Date: 5-12-67

City Attorney

By

Toby S. Lawrence

Toby S. Lawrence

Arthur G. Lawrence

Arthur G. Lawrence

IMPORTANT NOTE: This covenant must be executed by all record owners of the real property, and it must be executed and acknowledged in accordance with the Instructions for Execution of Instruments attached hereto. A current title report showing the names of all persons having an interest in the real property must be submitted to the City before this covenant will be approved for recordation.

(INDIVIDUAL)

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } SS.

On .....
before me, the undersigned, a Notary Public in and for said County and State, personally appeared .....
Toby S. Lawrence and Arthur G. Lawrence
.....
.....
known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.
WITNESS my hand and official seal.

(Seal) .....
Notary Public in and for said County and State.

(CORPORATION)

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } SS.

On .....
before me, the undersigned, a Notary Public in and for said County and State, personally appeared .....
known to me to be the ..... President,
and .....
known to me to be ..... Secretary of the Corporation that executed the within Instrument, known to me to be the persons 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 by-laws or a resolution of its board of directors.
WITNESS my hand and official seal.

(Seal) .....
Notary Public in and for said County and State.

B & P Form No. 2 - 2.7.61

RESTAURANTS & CATERING
"Your place or mine"

MARCO POLO SUPPER CLUB
SCOTTSDALE, AZ
PHOENIX, AZ

MASTRO'S STEAKHOUSE
N. SCOTTSDALE, AZ
BEVERLY HILLS, CA

MALONEY'S TAVERN
SCOTTSDALE, AZ
FLAGSTAFF, AZ
SAN DIEGO, CA
TUCSON, AZ
ALBUQUERQUE, NM

MALONEY'S ON CAMPUS
WESTWOOD, CA
TEMPE, AZ

COCOMO JOE'S DINING & BAR
N. PHOENIX, AZ

DRINKWATER'S CITY HALL
SCOTTSDALE, AZ

OCEAN CLUB
N. SCOTTSDALE, AZ

6-16-03

Mr. Bill Lindstrom
Development Officer
Sunrise Development, Inc.
902 Podva Road
Danville, CA 94256-4010

Dear Bill:

This letter is a follow up to our telephone conversation this morning. As we discussed, the covenant for parking spaces provides for our restaurant's un-encumbered access and use of seventy eight (78) parking spaces on lots thirteen, fourteen and fifteen (13, 14 & 15). Our intention is to work harmoniously with you and your company so that we may exercise our rights pursuant to the covenant allowing us to operate our business with out interference, while not causing a burden to your development of the property (as we feel your project will be an asset to our community).

Also as we discussed and as you included in your e-mail dated 6-12-03 the landowner is required to provide a parking attendant during the hours of operation of our use. An "Attendant" is defined by Webster's Dictionary as, "attending or serving" or "being present" nowhere does the covenant stipulate that the attendant is to be in control of the 78 covenanted spaces. You have no right to disallow our access to such spaces, as this would constitute a direct contradiction to the language and express intent of the covenant. The primary intent of the attendant-parking covenant is to ensure that the restaurant has 78 parking spaces available to it at all times.

Restricting our access to the spaces in any way will constitute a material breach of the agreement and will entitle us to damages for loss of profits and loss of good will due to our loss of customers caused by your failure to abide by the terms of the covenant, as well as other consequential damages.

Moreover, it has always been our intent to act in good faith toward a positive resolution to this issue as well as the more pressing issue of temporary parking during the construction phase of your project as defined in paragraph 19 of the Planning Commission resolution No. 1095. Our goal is to take a proactive approach to satisfying this issue and avoid any potential for a negative impact on either of our respective businesses.

Please contact me at your convenience.

Best regards,

Dennis Mastro
Owner, Mastro's Steakhouse

ATTACHMENT C

ARCHITECTURAL PLANS

(PROVIDED AS A SEPARATE ATTACHMENT)