



Attachment D
Correspondence from Staff

Andre Sahakian

From: Susan Healy Keene
Sent: Monday, April 18, 2016 4:10 PM
To: Mahdi Aluzri
Cc: George Chavez; Laurence Wiener; David Snow; Ryan Gohlich
Subject: L'Ermitage Questions
Attachments: CC Reso No. 99-R-10211 - L'Ermitage.pdf; Burton Way 9291 (Reso No. 1138).pdf; Burton Way 9291 (Reso No. 1191).pdf

Dear Mayor and Council members,

Several additional questions have been raised in response to the email I sent earlier regarding the L'Ermitage hearing at the Planning Commission last week. The questions and responses are provided below:

Q. How is it that staff was not aware when the CUP and DPR expired on Feb. 25, 2012? Don't we have a system for tracking the validity of current CUPs and DPRs?

A. Up until this point, the City has not maintained a comprehensive list or system for tracking CUPs or other entitlements that have expiration clauses. Not all CUPs and entitlements have expiration clauses. In response to this situation, we are conducting a comprehensive review of past approvals and establishing a tracking mechanism going forward.

Q. How can we ensure that there are no further instances of expired CUPs and DPRs for other projects?

A. As outlined above, staff plans to go back through all past entitlements to determine whether there are additional projects with expiration clauses in the conditions. We will then create a comprehensive list so that they can be tracked.

Q. Can you please forward the specific language by which the CUP and DPR are NOT eligible for extension, in conflict with resolutions 1138 and 1191?

A. Attached are copies of the resolutions. The specific language that controls renewals is actually set forth in Planning Commission Resolution No. 1191, which is the most recent resolution adopted by the Planning Commission. The resolution contains the conflicting language as highlighted below. The specific language states as follows:

"This C.U.P. and D.P.R. (collectively the "Permits") shall expire one year after the date of adoption of this resolution and all rights granted by these Permits shall terminate at that time. Unless the Permits are renewed as provided hereafter, or a new C.U.P. and D.P.R. are granted, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area, and the Applicant shall have no further right to renewal of the Permits.

Upon application by the Applicant, the Director of Planning and Community Development (the "Director") may extend the Permits if the Director determines that the public restaurant and outdoor dining area are operating in a manner substantially the same as described to and approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating any adverse impact on the surrounding area. Any application for a renewal of the Permits shall be filed at least sixty days prior to the expiration of these approvals.

If, in the opinion of the Director, an application to renew the C.U.P. and D.P.R. merits review by the Planning Commission, the Director may refer such application to the Planning Commission, and the Planning Commission

shall serve as the reviewing authority and shall conduct a noticed public hearing regarding the request to renew the Permits.

Any decision by the Director pursuant to this condition No. 2 may be appealed to the Planning Commission by filing a notice of appeal with the Director within ten days after the Director has issued the decision. Notice of the Director's decision shall be mailed to any person who submits a written request for such notice to the Director. If the matter is appealed to the Planning Commission, the Planning Commission shall hold a noticed public hearing on the matter.

If either the Director or the Planning Commission does not extend the Permits, the Permits shall expire and all rights possessed by the Applicant under the Permits shall be terminated. Provided, however, that if the Applicant files an application for an extension, any existing permits shall be extended until the City takes final action on the application.

Any application for an extension of these Permits shall be subject to the application fees established by Resolution of the City Council.

Upon expiration of the extension and any future extension, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any further extensions granted shall be governed by the provisions of the Beverly Hills Municipal Code."

Q. *How is the staff selectively interpreting the various resolutions? In other words, why would they rely on Planning Commission Resolutions 1138 and 1191, but not the specific resolution by which the CUP and DPR are not eligible for extensions?*

A. As stated above, for the purposes of renewal, Planning Commission Resolution No. 1191 controls, as it is the most recent resolution concerning renewals. The renewal condition set forth in City Council Resolution No. 99-R-10211 was deleted and replaced by Planning Commission Resolution No. 1138, and Planning Commission resolution No. 1191 deleted and replaced the renewal provisions set forth in Planning Commission Resolution No. 1138.

Q. *If there were any questions, why was the City Attorney not consulted at the time?*

A. At the time, staff believed its determination was accurate based on the language in the conditions of approval. In the future, the City Attorney's Office will be consulted on matters pertaining to entitlement expiration/renewal when a condition includes conflicting language.

Q. *If we do not currently have a system for tracking the validity of CUPs and DPRs, then this is something we urgently need to put in place?*

A. Yes, and staff plans to review all prior entitlements granted in the City to identify any other approvals that may have required renewal or review. A system will be established for future monitoring once all approvals have been reviewed.

Q. *In regards to this timeline [presented in the previous email].. Please revise to include the residents coming to city council meeting (specific date of that meeting) at council direction for the CUP to be reviewed by the planning commission..*

A. The residents with concerns regarding L'Ermitage came forward in public comment at the March 1, 2016 Council meeting.

Susan Healy Keene, AICP
Director of Community Development
City of Beverly Hills
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BCCC



MEMORANDUM
CITY OF BEVERLY HILLS

TO: City Council and Planning Commission
FROM: Susan Healy Keene, AICP, Director of Community Development
DATE: April 18, 2016
SUBJECT: L'Ermitage CUP and Expiration

Dear Mayor Mirisch and Councilmembers, and Chair Block and Commissioners,

As you are likely already aware, on April 14th the Planning Commission was scheduled to consider a request by the L'Ermitage Hotel to renew its Conditional Use Permit (CUP) and Development Plan Review (DPR). Both entitlements were previously required to allow the hotel to have an outdoor dining area and to allow the hotel's restaurant to be open to the public (rather than be restricted to use only by hotel guests and guests of hotel guests). Just prior to the hearing, it was determined that the CUP and DPR had expired, and were not eligible for renewal. This determination caused the CUP and DPR to immediately become invalid, meaning that the rights to operate outdoor dining and allow the restaurant to be open to the public were lost. In addition, because the hearing was noticed for a renewal, rather than a brand new CUP and DPR, the Planning Commission was unable to take any further action on the matter. The following seeks to provide information on the history of the entitlements, why this deficiency was not identified prior to the Planning Commission hearing, and the future process for the L'Ermitage to reestablish its prior restaurant operations.

Background. The entitlements in question were originally approved by the City Council in 1999, and that approval included a condition that would cause the CUP and DPR to expire if not renewed at periodic intervals, either by the Planning Commission or Director of Community Development. The entitlements were periodically renewed by the hotel up until 2009, at which time a 3-year renewal was granted, setting a new expiration date of February 25, 2012. In 2010 the hotel was purchased by the Viceroy Group, and thereafter the City has no records of further renewal requests being filed. As a result, the CUP and DPR expired on February 25, 2012. In addition to the hotel failing to file a renewal request, staff, at that time, was not aware that the entitlements had expired. The following is an approximate chronology of how and when the expired entitlements were identified:

- 6/26/2014: Applications were filed by the Viceroy Group to establish a new overlay zone for the subject property, which would allow for a new rooftop enclosure and establish new operating conditions for the property.
- 9/24/2014: Environmental analysis of abovementioned overlay zone initiated.

- February 2015: As a part of processing the abovementioned overlay zone, staff's research identified the fact that the CUP and DPR had expired. The process for renewing the CUP and DPR was addressed in multiple resolutions over the years (City Council Resolution No. 99-R-10211, and Planning Commission Resolution Nos. 1138 and 1191), as well as Director-level reviews. The general provisions for renewal state that a renewal request must be made at least 60 days in advance of expiration, and if not renewed the entitlements expire. In an effort to be solution-oriented while balancing the competing interests of supporting local businesses and simultaneously preserving the quality of residential life, staff explored the various components of the resolutions to see if renewal by the Planning Commission, rather than ceasing operations pertaining to the restaurant and open air dining and starting anew, was an option contemplated in the resolutions. Ultimately, staff relied on a paragraph in Planning Commission Resolution Nos. 1138 and 1191 that states as follows:

"Upon expiration of the extension and any future extension, the Applicant may apply for further extensions pursuant to the procedures set forth above. The length of any further extensions granted shall be governed by the provisions of the Beverly Hills Municipal Code." – Excerpt of Conditions 1 and 2 of Planning Commission Resolution Nos. 1138 and 1191, respectively.

Staff's conclusion, based on the above condition language, was that the entitlements were in fact eligible for renewal, even if they had previously expired. Furthermore, the condition also states that *"if the Applicant files an application for an extension, any existing permits shall be extended until the City takes final action on the application."* Accordingly, the filing of an application would cause the entitlements to remain valid until formally acted upon.

- March 4, 2015: An application for CUP and DPR renewal was filed by Mitch Dawson on behalf of the L'Ermitage Hotel, based on the above interpretation of the renewal provisions.

The application was not immediately presented to the Planning Commission, as it was staff's expectation that the overlay zone would be moving forward in the near future, and rather than bifurcate the review process with first a renewal and then an overlay zone, all aspects of the property's usage should be packaged together as one unified review process associated with the overlay zone. In addition, staff was unaware of any ongoing violations at the property that would merit a more expeditious review by the Planning Commission, in advance of the overlay zone.

- 11/12/2015: The Planning Commission conducted a preliminary review of the abovementioned overlay zone and provided comments regarding noise mitigation and project design. It was anticipated that the applicant would return in the near future with project revisions in response to the Commission's comments.
- February 2016: It became apparent to staff that the hotel was not progressing as quickly as anticipated with updates to the overlay zone application, and that the CUP and DPR renewal process should be advanced independent of the overlay zone. Staff had also begun to receive evidence of an increasing number of violations, and concerns were also raised by several Councilmembers as to the hotel's compliance.

- 4/14/2016: The Planning Commission was scheduled to review the CUP and DPR renewal at a public hearing. On the morning prior to the meeting, Commissioner Gordon called into question staff's determination regarding the hotel's ability to request a renewal of the CUP and DPR. Independent of that, the City Attorney had asked for the prior resolutions. Upon consultation with the City Attorney, the City Attorney's legal opinion was that the CUP and DPR were in fact not eligible for renewal under the terms of the prior resolutions. Based on this determination, the Planning Commission was unable to move forward with the hearing, and the hotel was directed to file new applications while ceasing the activities authorized by the CUP and DPR.

Next Steps. Based on the determination outlined above and at the 4/14/2016 Planning Commission meeting, the L'Ermitage is required to file applications for new entitlements that would allow them to conduct the activities authorized in the CUP and DPR. In particular, use of the open air dining area along Burton Way must cease, and the restaurant cannot be open to the general public, meaning that it should only be reserved for use by hotel guests and guests of hotel guests. Based on newspaper noticing requirements, the Planning Commission is unable to conduct a review of new applications until the beginning of May at the earliest. The Planning Commissioners present at the hearing expressed interest in conducting a special meeting at the earliest opportunity, so that the hotel's ability to operate its restaurant in the same manner as before can be reinstated (provided all necessary findings can be made). Staff has been in communication with the applicant, and staff understands that new applications will be filed first thing this week so that a new hearing can be scheduled.

In addition, staff plans to begin reviewing all prior entitlements granted in the City to determine if there are any other instances of expired entitlements that may require review by the Planning Commission.

Please let me know if you have any questions, and we will update you on the progress of the L'Ermitage going forward.

Andre Sahakian

From: Ryan Gohlich
Sent: Tuesday, April 12, 2016 2:53 PM
To: Ryan Gohlich
Cc: Mahdi Aluzri; George Chavez; Susan Healy Keene; Masa Alkire; Andre Sahakian; RWG DavidSnow; Karen Myron; Matti Bialer (bialermatti@aol.com); mikaelc@aol.com
Subject: FW: L'Ermitage Hotel Hearing
Attachments: viceroy neighborhood support

Dear Chair Block and Commissioners,

Following up on yesterday's email, please find 4 additional video links below from Matti Bailer that have not previously been sent to you, which brings the total video count to 7. In addition, I've attached email correspondence from Mitch Dawson on behalf of the L'Ermitage. Please let me know if you have any questions.

[Video 4](#)

[Video 5](#)

[Video 6](#)

[Video 7](#)

Thank you,

Ryan

Bcc: City Council and Planning Commission

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From: Ryan Gohlich
Sent: Monday, April 11, 2016 3:46 PM
To: Ryan Gohlich
Cc: Mahdi Aluzri; George Chavez; Susan Healy Keene; Masa Alkire; Andre Sahakian; Karen Myron
Subject: L'Ermitage Hotel Hearing

Dear Chair Block and Commissioners,

Since the distribution of packet materials, it has been brought to our attention that some of the emails and photos provided to us by neighbors of the L'Ermitage were accidentally left out of the packet. In addition, we've received some additional correspondence since then. Please review the attached memo, as well as the attached correspondence, which is a complete package of all correspondence received thus far. If any of you need hard copies of the

correspondence in advance of the meeting please let me know and we'll be happy to provide that. Additionally, links to videos sent via email are provided as follows:

[Video 1](#)

[Video 2](#)

[Video 3](#)

As a final note, please remember to wear/bring comfortable shoes, as we'll be taking a walking tour to the L'Ermitage so you can better familiarize yourself with the property and its operations. As always, let me know if you have any questions.

Thanks,

Ryan

Bcc: City Council and Planning Commission

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Attachment E
Police Reports

L'Ermitage 101e1

INCIDENT SEARCH

Print Date/Time: 3/12/2016 4:12:47 PM

Incident Number	Call Date/Time	Dispositions	Location	Incident Type
2016-00012301	03/08/2016 06:55:34	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2016-00011455	03/03/2016 10:25:48	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00011446	03/03/2016 09:51:50	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00010430	02/26/2016 12:56:53	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00009994	02/24/2016 11:19:27	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00009884	02/23/2016 20:35:37	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	KEEP THE PEACE
2016-00009263	02/20/2016 12:39:42	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00009259	02/20/2016 12:08:21	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2016-00007866	02/12/2016 20:53:49	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2016-00007827	02/12/2016 19:23:58	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2016-00007793	02/12/2016 15:19:40	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00007782	02/12/2016 14:31:12	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00007519	02/11/2016 11:15:09	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00007308	02/10/2016 12:45:11	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00007199	02/10/2016 06:56:22	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2016-00005282	01/30/2016 10:49:54	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00004966	01/28/2016 13:28:59	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00004760	01/27/2016 11:02:16	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00004601	01/26/2016 10:05:00	RPT - 1	9291 BURTON WAY, BEVERLY HILLS	PROPERTY (LOST OR FOUND)
2016-00004477	01/25/2016 21:13:24	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	911 CALL
2016-00003466	01/20/2016 10:53:13	CMP - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00003088	01/18/2016 13:12:35	NPA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2016-00002773	01/16/2016 14:04:53	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2016-00001551	01/10/2016 09:58:02	NPA - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2016-00001237	01/08/2016 10:04:00	RPT - 1	9291 BURTON WAY, BEVERLY HILLS	MISSING PERSON
2016-00000591	01/04/2016 22:44:45	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	911 CALL
2016-00000348	01/03/2016 12:34:34	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00065856	12/19/2015 07:22:08	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2015-00064903	12/14/2015 09:07:58	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00063242	12/05/2015 10:22:46	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2015-00060996	11/21/2015 13:13:33	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2015-00055940	10/25/2015 22:51:35	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00054015	10/15/2015 10:25:57	AST - 1	9291 BURTON WAY, BEVERLY HILLS	ASSIST OTHER POLICE DEPT
2015-00053184	10/10/2015 15:36:02	CMP - 1	9291 BURTON WAY, BEVERLY HILLS	OTHER REPORT
2015-00052035	10/04/2015 22:34:00	AQA - 1, ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00051996	10/04/2015 16:25:00	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00051967	10/04/2015 11:47:24	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00050401	09/26/2015 06:51:51	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2015-00050279	09/25/2015 13:26:07	CMP - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00050178	09/24/2015 23:09:00	AQA - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00049552	09/22/2015 06:39:24	NEC - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00049163	09/19/2015 20:48:08	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00047872	09/12/2015 20:16:00	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00047778	09/12/2015 08:21:25	CMP - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00047767	09/12/2015 07:24:13	NPA - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2015-00047406	09/10/2015 10:03:50	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00046963	09/08/2015 10:01:43	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00046730	09/06/2015 20:47:00	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00046492	09/05/2015 12:54:00	CKOK - 1, CRP - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2015-00045557	09/01/2015 13:17:00	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00040361	08/09/2015 10:34:00	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2015-00039740	08/06/2015 10:49:00	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00039511	08/05/2015 11:36:50	CMP - 1	9291 BURTON WAY, BEVERLY HILLS	KEEP THE PEACE
2015-00039140	08/03/2015 14:57:04	NPA - 1	9291 BURTON WAY, BEVERLY HILLS	OTHER
2015-00038594	07/31/2015 11:56:00	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00037149	07/23/2015 13:18:00	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00037112	07/23/2015 09:55:00	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00036761	07/21/2015 11:36:00	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00036162	07/17/2015 12:58:48	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL

2015-00036160	07/17/2015	12:37:49	NPA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00036110	07/17/2015	08:15:46	SOW - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00035472	07/13/2015	21:07:39	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	SPECIAL WATCH
2015-00035324	07/13/2015	09:33:14	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00035317	07/13/2015	09:13:58	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00034973	07/10/2015	22:59:38	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00034887	07/10/2015	13:33:22	NPA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00034867	07/10/2015	11:55:56	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00033172	07/01/2015	07:39:00	UTL - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2015-00032321	06/26/2015	07:43:06	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00032174	06/25/2015	13:04:22	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00032016	06/24/2015	15:51:38	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00031360	06/20/2015	17:58:27	ARR - 1	9291 BURTON WAY, BEVERLY HILLS	647(F) PC- DRUNK/DRUGS
2015-00030716	06/17/2015	09:20:11	NPA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00030327	06/15/2015	10:37:50	CIV - 1	9291 BURTON WAY, BEVERLY HILLS	594 PC- VANDALISM
2015-00030285	06/15/2015	07:02:01	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00029638	06/11/2015	11:45:32	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00029189	06/09/2015	09:52:33	CMP - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00028049	06/03/2015	09:38:00	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00027613	06/01/2015	09:00:46	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00026712	05/27/2015	11:12:16	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00025672	05/21/2015	10:24:54	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00025484	05/20/2015	13:07:23	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00025374	05/20/2015	07:04:08	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	MUNICIPAL CODE VIOLATION
2015-00024560	05/15/2015	11:54:45	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00024357	05/14/2015	09:26:50	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00024331	05/14/2015	07:11:22	REF - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00024175	05/13/2015	12:54:31	AST - 1	9291 BURTON WAY, BEVERLY HILLS	ASSIST OTHER CITY EMPLOYEE
2015-00024174	05/13/2015	12:45:43	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00024020	05/12/2015	13:13:07	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00024006	05/12/2015	12:24:55	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00023788	05/11/2015	10:30:14	CMP - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00023760	05/11/2015	08:01:04	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00023559	05/09/2015	13:47:59	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00023542	05/09/2015	11:33:40	CMP - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00023521	05/09/2015	09:30:56	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00023515	05/09/2015	07:14:04	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00023323	05/08/2015	09:17:59	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00023217	05/07/2015	16:22:55	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00023126	05/07/2015	09:29:09	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00022962	05/06/2015	13:14:57	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00022958	05/06/2015	12:51:07	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00022897	05/06/2015	08:45:07	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00021136	04/26/2015	16:19:00	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00013214	03/14/2015	01:49:20	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00010919	03/02/2015	10:20:11	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00010843	03/01/2015	20:01:01	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	911 CALL
2015-00010817	03/01/2015	15:06:21	CRP - 1	9291 BURTON WAY, BEVERLY HILLS	KEEP THE PEACE
2015-00010726	02/28/2015	18:31:14	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	911 CALL
2015-00009690	02/23/2015	11:10:46	CRP - 1	9291 BURTON WAY, BEVERLY HILLS	ASSIST OTHER CITY EMPLOYEE
2015-00007785	02/12/2015	21:03:09	AST - 1	9291 BURTON WAY, BEVERLY HILLS	ASSIST THE CITIZEN
2015-00007028	02/09/2015	12:18:23	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2015-00006399	02/05/2015	22:09:48	ADV - 2	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00004147	01/25/2015	20:59:18	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2015-00004141	01/25/2015	20:17:14	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	KEEP THE PEACE
2014-00054679	12/23/2014	17:56:26	ARR - 1	9291 BURTON WAY, BEVERLY HILLS	415 PC- DISTURBANCE
2014-00054545	12/22/2014	21:51:13	SOW - 1	9291 BURTON WAY, BEVERLY HILLS	415 PC- DISTURBANCE
2014-00054520	12/22/2014	18:55:00		9291 BURTON WAY, BEVERLY HILLS	487 PC- GRAND THEFT
2014-00053365	12/15/2014	20:23:24	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	SUBJECT STOP
2014-00052706	12/11/2014	22:18:17	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2014-00050593	11/29/2014	03:38:01	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	JUVENILE COMPLAINT
2014-00049337	11/20/2014	15:41:06	CIT - 1	9291 BURTON WAY, BEVERLY HILLS	PARKING CALL
2014-00047745	11/11/2014	20:17:19	GOA - 1	9291 BURTON WAY, BEVERLY HILLS	647(F) PC- DRUNK/DRUGS
2014-00047256	11/08/2014	21:38:19	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE

2014-00043303	10/16/2014 19:20:04	ARR - 1	9291 BURTON WAY, BEVERLY HILLS	415 PC- DISTURBANCE
2014-00043087	10/15/2014 20:11:30	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	415 PC- DISTURBANCE
2014-00041029	10/03/2014 09:38:16	CMP - 1	9291 BURTON WAY, BEVERLY HILLS	TRAFFIC HAZARD
2014-00040859	10/02/2014 12:10:11	EX - 1	9291 BURTON WAY, BEVERLY HILLS	FOLLOW
2014-00039151	09/21/2014 21:11:31	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2014-00039146	09/21/2014 19:15:50	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2014-00035242	08/27/2014 05:22:39	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	TRAFFIC STOP
2014-00031819	08/05/2014 12:52:45	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	911 CALL
2014-00029535	07/21/2014 01:23:24	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	SUSPICIOUS VEHICLE
2014-00027062	07/04/2014 00:28:34	ALMB - 1	9291 BURTON WAY, BEVERLY HILLS	ALARM
2014-00025222	06/22/2014 21:22:33	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2014-00025212	06/22/2014 20:07:52	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2014-00025085	06/21/2014 21:46:18	ADV - 1	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2014-00025078	06/21/2014 21:01:16	ADV - 2	9291 BURTON WAY, BEVERLY HILLS	DISTURBING THE PEACE
2014-00020241	05/20/2014 10:20:46	ALMB - 1	9291 BURTON WAY, BEVERLY HILLS	ALARM
2014-00018931	05/11/2014 23:24:51	UTL - 2	9291 BURTON WAY, BEVERLY HILLS	UNKNOWN TROUBLE
2014-00014703	04/14/2014 20:47:32	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	FB
2014-00014697	04/14/2014 20:13:00	CKOK - 1	9291 BURTON WAY, BEVERLY HILLS	FB
2014-00009261	03/07/2014 19:42:43	ALMB - 1	9291 BURTON WAY, BEVERLY HILLS	ALARM

Total Rows: 142



Attachment F
Draft Resolution

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT TO ALLOW A DINING FACILITY IN A NONCONFORMING HOTEL TO BE OPEN TO THE PUBLIC, A DEVELOPMENT PLAN REVIEW TO ALLOW THE ESTABLISHMENT OF AN OPEN AIR DINING AREA THAT WOULD BE SERVED BY EXISTING PARKING SUPPLY AND VALET OPERATIONS, AND AN EXTENDED HOURS PERMIT TO ALLOW A NONCONFORMING HOTEL RESTAURANT, OPEN AIR DINING AREA, AND ROOFTOP USE TO OPERATE DURING EXTENDED HOURS AT 9291 BURTON WAY (L'ERMITAGE HOTEL).

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

Section 1. LBH Real Estate LLC, owner of the L'Ermitage Hotel, through its agent Mitchell J. Dawson (collectively the "Applicant"), has submitted an application for a Conditional Use Permit (CUP) to allow a dining facility in a nonconforming hotel to be open to the public, a Development Plan Review (DPR) to establish an open air dining area on a nonconforming hotel site that would be served by existing parking supply, and an Extended Hours Permit to allow a nonconforming hotel restaurant, open air dining area, and rooftop to operate during extended hours at 9291 Burton Way for the L'Ermitage Hotel (the "Project").

Section 2. The hotel use was originally constructed in 1976, prior to the requirement for a CUP for hotel uses. Subsequently, the hotel was granted a DPR to allow open air dining and a CUP for rooftop uses and to allow the hotel restaurant to be open to the public pursuant to Planning Commission Resolution No. 1094. Upon appeal, the approval of the DPR

and CUP was upheld by the City Council pursuant to City Council Resolution 99-R-10211, and the entitlements were subsequently renewed by the Planning Commission pursuant to Planning Commission Resolutions 1138 and 1191. These entitlements established the operational standards for the hotel restaurant, open air dining area, and rooftop event space, including the size, hours, and manner of operation of the open air dining area; the number and frequency of events allowed on the rooftop; access and use restrictions to the hotel restaurant; the manner in which deliveries could be made to the hotel; employee and visitor parking; and the process for renewal of the entitlements. Condition 2 of Resolution No. 1911 states that:

“This CUP and DPR (collectively the “Permits”) shall expire one year after the date of adoption of this resolution and all rights granted by these Permits shall terminate at that time. Unless the Permits are renewed as provided hereafter, or a new CUP and DPR are granted, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area, and the Applicant shall have no further right to renewal of the Permits. Upon application by the Applicant, the Director of Planning and Community Development (the “Director”) may extend the Permits if the Director determines that the public restaurant and outdoor dining area are operating in a manner substantially the same as described to and approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating any adverse impact on the surrounding area. Any application for a renewal of the Permits shall be filed at least sixty days prior to the expiration of these renewals. ”

The most recent extension of the DPR and CUP was granted in 2009, for three additional years, until February 25, 2012. On March 2, 2015, the Applicant submitted an application for renewal of the DPR and CUP. Just prior to the Planning Commission meeting on April 14, 2016, it was

determined that the DPR and CUP were not eligible for renewal and the Applicant was directed to submit applications for new entitlements for the Project. Said new entitlements are addressed herein.

Section 3. The subject site area consists of 31,200 square feet, and is currently developed with an eight-story hotel with 119 guestrooms, a lounge and restaurant in the lobby, an open air dining area, and a rooftop pool and event space. The subject site is located along Burton Way, a major east-west thoroughfare with primarily one- and two-story residential development along the south side, and higher density multi-family residential development along the north side. The project site is abutted by a three-story multi-family residential building to the west. Immediately adjacent to the subject property to the east a new five-story condominium project is currently under construction. To the north is a commercial area consisting of former industrial sites that have over time developed into a cluster of corporate offices for media/entertainment companies. The project site is separated from this commercial area by a two-way alley that connects Maple Drive and Foothill Road. The alley provides pedestrian and vehicular access to the rear of the buildings along Burton Way.

Section 4. The Project includes a request for a Conditional Use Permit to allow the hotel restaurant to be open to the public, a Development Plan Review to allow the establishment of an open air dining area that would be served by existing parking supply, and an Extended Hours Permit to allow the hotel restaurant, open air dining area, and rooftop event space to operate during extended hours in a Commercial-Residential Transition Area. These entitlements were previously granted pursuant to City Council Resolution No. 99-R-10211, and renewed by Planning Commission Resolution Nos. 1138 and 1191 in 2000 and 2001,

respectively, with conditions of approval being carried through each subsequent resolution. These entitlements have expired because timely renewal did not occur, and this Project is a request for new entitlements for the hotel restaurant and open air dining area, as well as the ability to impose conditions on rooftop events. In addition to the request to allow the hotel restaurant to be open to the public, this Project includes an open air dining area located along Burton Way, with a direct stairway entrance located immediately adjacent to the existing hotel entrance. The open air dining area would contain a maximum of 7 tables and 20 chairs, which is the same amount as was previously approved prior to expiration of the entitlements. There is also a request to allow the open air dining area to utilize existing parking supply on site, and waive the requirement for 14 additional parking spaces that would otherwise be required for 618 square feet of open air dining on private property.

Section 5. The request to continue the open air dining area, hotel restaurant, and rooftop operations as outlined above result in the need for specific entitlements as follows:

1. Conditional Use Permit: A Conditional Use Permit was previously granted by the City Council pursuant to Resolution No. 99-R-10211 to allow the hotel restaurant to be open to the public, and was subsequently renewed by the Planning Commission pursuant to Resolution Nos. 1138 and 1191. In addition, the Conditional Use Permit has been used as a means to impose conditions on rooftop operations. These approvals have expired due to non-renewal. Therefore, a new Conditional Use Permit is required to allow the hotel restaurant to be open to the public.

2. Development Plan Review: A Development Plan Review was granted by the City Council pursuant to Resolution No. 99-R-10211 to allow an open air dining area

containing 7 tables and 20 chairs on private property, and was subsequently renewed by the Planning Commission pursuant to Resolution Nos. 1138 and 1191. These approvals have expired due to non-renewal. Therefore, a new Development Plan Review Permit is required to re-establish the open air dining area in a new location near the hotel's Burton Way entrance and to waive the requirement for additional parking for the outdoor dining area.

3. Extended Hours Permit: The subject site is located in a Commercial-Residential Transition Area, and is therefore subject to the operational restrictions for these areas identified in BHMC Article 19.5. In order for the hotel restaurant, open air dining area, and rooftop to operate before 7:00 a.m. and after 10:00 p.m., an Extended Hours Permit is required.

Section 6. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City's Local CEQA Guidelines (hereafter the "Guidelines"). The Project is found to be exempt from further review on the separate and independent bases of Sections 15301 (Class 1), 15302 (Class 2), and 15332 (Class 32) of the Guidelines, as follows:

A Class 1 Categorical Exemption consists of permitting or minor alteration of existing structures involving negligible or no expansion of use. Examples include interior or exterior alterations and additions to existing structures provided that the additions do not result in an increase of more than 10,000 square feet. The proposed project consists of granting entitlements that would govern the operations of a commercial hotel including restaurant and rooftop area, and allowing alterations to the front patio to establish an open air dining area of the same capacity as was previously existing and approved. The use of the hotel, restaurant, open air

dining area, and rooftop area would remain substantially the same as what was previously approved and has been in operation for approximately the last 16 years, although perhaps with additional conditions of approval to address compatibility with neighboring uses.

A Class 2 Categorical Exemption consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity. The proposed project includes replacement/re-approval of a previously approved open air dining area on the same site, with the same capacity and function as was previously existing and approved. The hotel restaurant and rooftop structures will remain substantially the same as what was previously approved and has existed for approximately the last 16 years, although perhaps with additional conditions of approval to address compatibility with neighboring uses.

A Class 32 Categorical Exemption consists of projects characterized as in-fill development meeting the following conditions:

1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.

- The proposed project is a legally nonconforming commercial hotel use located in an R-4 multi-family residential zone. Although hotels are no longer a permitted use within an R-4 Zone if constructed new, the City's Zoning Ordinance allows for legally nonconforming uses to be continued without alteration or expansion, and includes specific provisions for the

operation of nonconforming hotels in an R-4 Zone. The Zoning Ordinance also allows for restaurants to be operated within a nonconforming hotel located in an R-4 Zone, including the ability to be open to the general public provided that a Conditional Use Permit is first obtained. Additionally, the Zoning Ordinance allows outdoor dining to be established in nonconforming hotels in an R-4 Zone pursuant to the issuance of a Development Plan Review. The proposed project consists of a hotel restaurant, open air dining, and rooftop uses operated in substantially the same manner as when the hotel use was established, and as amended over time by the City Council and Planning Commission. In addition, the project complies with numerous General Plan policies, including Policies LU 9.1, LU 15.2, and ES 1.4, which relate to retaining existing industries such as luxury hotels, as well as Policies N 1.3, and N 1.4.

2. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

- The project site is located in the City of Beverly Hills and consists of 31,200 square feet (approximately 0.72 acres), and is surrounded by urban uses, such as multi-family residential buildings, government buildings, single-family residences, and commercial offices, all of which are typical of an urban environment.

3. The project site has no value as habitat for endangered, rare, or threatened species.

- The project site has been developed with the current structure since 1976, and is located in a developed urban area. There are no known habitats for endangered, rare, or threatened species on the project site.

4. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

- Restaurant / Outdoor Dining. The project site has been operating as a commercial hotel with a restaurant open to the public and an open air dining area for approximately 16 years. The proposed project would operate in substantially the same manner as previously approved. The hotel restaurant faces Burton Way and is completely enclosed. As conditioned, banquets or similar private receptions or parties are also prohibited in the restaurant. The open air dining area has been relocated to an area that is approximately 120 feet from the neighboring residential building to the west, which is approximately 50 feet further away than the previously approved open air dining area, and as conditioned, operation of the open air dining area will cease at 10:30 p.m. The project will maintain the same number of tables and chairs in the relocated open air dining area as previously approved. Neither live entertainment nor amplified music will be allowed at any time in the open air dining area. The new stairway access to the open air dining area is located on private property directly adjacent to the main hotel entrance, and conditions have been recommended that would prohibit patrons from queuing outside.

- Rooftop Uses. Proposed conditions would limit evening functions on the rooftop to twice per week unless authorized by the Director of Community Development, and such functions are limited to a total of 52 per calendar year. Proposed conditions would also require all rooftop functions to cease by 11:00 p.m. on Sundays through Thursdays, and by 12:00 midnight on Fridays, Saturdays, and evenings preceding holidays. As conditioned, no additional events on the rooftop are allowed per calendar year beyond what was previously approved. Thus, approval of the project would not constitute any intensification of the past uses of the restaurant or rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate the traffic flow for the continued use of the hotel restaurant and rooftop area, thus the proposed project would not create any other significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

- Hotel Restaurant. The restaurant kitchen is located inside the hotel, and cooking will not be performed outdoors. Approval of the project will not alter the current venting of the kitchen and the City has received no evidence that the restaurant or rooftop currently create any odors or noxious fumes. Continuation of the previous uses would not result in any significant change to air quality in the vicinity of the project, or the region. The proposed continuation of uses would not result in any water quality issues in that no significant changes to the overall project site would

occur, and all restaurant activities would continue to comply with applicable regulations to avoid any impact to water quality.

- For the foregoing reasons, approval of the project, with the proposed conditions of approval, will not result in any significant effects relating to traffic, noise, air quality, or water quality.

5. The site can be adequately served by all required utilities and public services.

- The site is currently served by all required utilities and public services, and no new utilities or public services will be necessary for the proposed project.

Section 7. Notice of the Project and public hearing was published in two newspapers of local circulation, and was mailed on April 22, 2016 to all property owners and residential occupants within a 500-foot radius of the property plus block face. Notice of the Project and public hearing was also posted on the property on April 22, 2016.

Section 8. In considering the request for a Conditional Use Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The proposed location of any such use will not be detrimental to adjacent property or to the public welfare;

2. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to the accumulation of garbage, trash, or other waste;

3. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;

4. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to light and glare;

5. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to odors or noxious fumes;

6. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to parking demand created by the restaurant, including parking demand created by employees; and

7. The restaurant will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to traffic.

Section 9. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Conditional Use Permit:

1. Granting the Conditional Use Permit and establishing the conditions of approval to allow for the restaurant and rooftop to be open to the public will result in hotel operations that are substantially similar to previously approved hotel operations, but with more clear and enforceable conditions and penalties for violations. The project will not result in any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or

pedestrian safety hazards. Nor will the project, as conditioned, have a significant parking impact. The open air dining area will maintain the previously approved maximum of 7 tables and 20 chairs, and does not encroach into the public right of way. Conditions of approval intended to prevent any impacts related to noise are included. The hotel has sufficient parking available within the hotel's on-site parking garage, and valet operations as well as entry to the hotel are provided from Burton Way. Conditions of approval relating to the frequency and hours of rooftop activities have been included to prevent impacts from evening functions. As conditioned, granting the Conditional Use Permit will not be detrimental to adjacent property or the public welfare.

2. As conditioned, the applicant is required to maintain the subject area in a clean and sanitary condition. There is an on-site trash compactor and trash storage areas, completely enclosed in the subterranean garage. For these reasons, as conditioned, the restaurant and rooftop will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to the accumulation of garbage, trash, or other waste.

3. The hotel restaurant faces Burton way and is completely enclosed. As conditioned, banquets or similar private receptions or parties are also prohibited in the restaurant. The open air dining area has been relocated to an area that is approximately 50 feet further east of the neighboring residential building to the west, and as conditioned, operation of the open air dining area will cease at 10:30 p.m. Neither live entertainment nor amplified music will be allowed at any time in the open air dining area. The new stairway access to the open air dining area is located on private property directly adjacent to the main hotel entrance, and conditions have been imposed to prohibit patrons from queuing outside. As conditioned, evening functions on the rooftop are limited to twice per week unless authorized by the Director of Community

Development, and such functions are limited to a total of 52 per calendar year. As conditioned, all rooftop functions will cease by 11:00 p.m. on Sundays through Thursdays, and by 12:00 a.m. midnight on Fridays, Saturdays, and evenings preceding holidays. For these reasons, as conditioned, the restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant.

4. The restaurant is located on the ground floor, is fully enclosed, and is separated from neighboring residential properties by walls and a courtyard. The rooftop event area is located on the east side of the hotel building, and no lighting will be directed toward the residential property to the east. For these reasons, as conditioned, the restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to light and glare.

5. The restaurant kitchen is located inside the hotel, and cooking will not be performed outdoors. Approval of the project will not alter the current venting of the kitchen and the City has received no evidence that the restaurant or rooftop currently create any odors or noxious fumes. For these reasons, the restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to odors or noxious fumes.

6. Past parking analyses have determined that the hotel has adequate parking for the proposed uses, and can accommodate the required parking demand through the use of valet parking. Conditions have been imposed that require provision of free parking for employees of the hotel to avoid the potential for employee parking to impact on-street parking in the vicinity of the project. In order to further reduce the potential for parking impacts, conditions

have been imposed requiring the hotel to provide free valet parking for restaurant patrons. However, because it is impossible to require patrons of the restaurant to use valet parking, and because such patrons may impact the adjacent residential neighborhoods by using available street parking in the area, the project has been further conditioned to prohibit the use of the hotel rooftop for more than two evening functions per week that involve more than 25 attendees other than hotel guests. Additionally, no more than 52 such functions are permitted during any calendar year. This condition will ensure that the potential increase in parking impacts to the neighboring residential streets generated by opening the restaurant to the public is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation. A traffic and parking plan is also required to be submitted in connection with any rooftop function involving more than 25 attendees who are not hotel guests. This condition will further ensure that the project will not have a substantial and adverse impact on neighboring properties due to the occurrence of other events at the hotel that might place a strain on available parking and valet resources to be used by the project. For these reasons, as conditioned, the restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to parking demand created by the restaurant, including parking demand created by employees.

7. The project will maintain the same number of tables and chairs in the relocated open air dining area as previously approved. As conditioned, no additional events on the rooftop are allowed per calendar year beyond what was previously approved. Thus, approval of the project does not constitute any intensification of the past uses of the restaurant and rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate any potential increases in traffic flow for the continued use of the hotel

restaurant and rooftop area. For these reasons, as conditioned, the restaurant and rooftop area will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to traffic.

Section 10. In considering the request 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 11. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Development Plan Review:

1. The General Plan encourages accommodation of hotel uses that attract customers from the region and provide a quality experience for national and international uses. (Policy LU 9.1) The General Plan also encourages retention and improvement of priority businesses, including high-end hotels. (Policy LU 15.2; Policy ES 1.4) Other policies in the General Plan call for maintaining compatible relationships between commercial uses and adjoining residential neighborhoods, limiting hours of commercial and entertainment operations adjacent to residential neighborhoods, and limiting hours of truck deliveries to commercial uses abutting residential neighborhoods. (Policies LU 12, LU 12.1, N 1.3, and N 1.4) Recognizing the need to balance retention of high-end hotels with the desire to maintain compatibility of uses and minimize noise impacts to residential uses, conditions have been imposed that limit the operations of the open air dining area, and mechanisms have been developed to enable efficient enforcement of all conditions of approval. For these reasons, as conditioned, granting the Development Plan Review to allow operation of the relocated open air dining area is consistent with the General Plan. Further, the subject property is not located within any specific plans.

2. Granting the Development Plan Review to allow operation of the relocated open air dining area will not result in an increase in traffic or parking demand beyond what has occurred for approximately the past 16 years. The number of tables and chairs will not increase beyond what has been previously approved, and the relocated open air dining area is approximately 50 feet further away from the neighboring residential property to the west. Conditions have been imposed that limit the operations of the open air dining area. For these reasons, as conditioned, granting the Development Plan Review to allow operation of the relocated open air dining area will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.

3. Granting the Development Plan Review to allow operation of the relocated open air dining area will not materially alter the nature, density, or height of the project. The relocation and reconfiguration will result in the open air dining area being located approximately 50 feet further away from the neighboring residential building to the west, and will reduce the likelihood of noise impacts. Conditions have been imposed in order to mitigate any other potential impacts to neighboring residential properties, including but not limited to restrictions on the hours of operation of the open air dining area, prohibiting live entertainment and amplified music, and prohibiting queuing of patrons outside. The Project will also not result in any increase in height, or any increase in hotel rooms or hotel capacity. For these reasons, as conditioned, the nature, configuration, location, density, height and manner of operation of the relocated open air dining area will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

4. Past parking analyses have determined that the hotel has adequate parking for the proposed uses, and can accommodate the required parking demand through the use of valet parking. Conditions have been imposed that require provision of free parking for employees of the hotel to avoid the potential for employee parking to impact on-street parking in the vicinity of the project. In order to further reduce the potential for parking impacts, conditions have been imposed requiring the hotel to provide free valet parking for restaurant patrons. However, because it is impossible to require patrons of the restaurant to use valet parking, and because such patrons may impact the adjacent residential neighborhoods by using available street parking in the area, the Project has been further conditioned to prohibit the use of the hotel rooftop for more than two evening functions per week that involve more than twenty-five attendees other than hotel guests. Additionally, no more than fifty-two such functions are

permitted during any calendar year. This condition will ensure that the potential increase in parking impacts to the neighboring residential streets generated by opening the restaurant to the public is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation. A traffic and parking plan is also required to be submitted in connection with any rooftop function involving more than 25 attendees who are not hotel guests. This condition will further ensure that the Project will not have a substantial and adverse impact on neighboring properties due to the occurrence of other events at the hotel that might place a strain on available parking and valet resources to be used by the Project. The project will maintain the same number of tables and chairs in the relocated open air dining area as was previously approved and existed for approximately the past 16 years. As conditioned, no additional events on the rooftop are allowed per calendar year beyond what was previously approved. Thus, approval of the project does not constitute any intensification of the past uses of the restaurant and rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate any potential increases in traffic flow for the continued use of the hotel restaurant and rooftop area. For these reasons, as conditioned, granting the Development Plan Review permit to allow operation of the relocated open air dining area will not result in significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.

5. Granting the Development Plan Review to allow operation of the relocated open air dining area will result in hotel operations that are substantially similar to previously approved hotel operations that existed for approximately the past 16 years, but with more clear and enforceable conditions and penalties for violations. The Project will not result in any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or

pedestrian safety hazards because the project does not constitute any intensification of the past uses of the restaurant and rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate any potential increases in traffic flow for the continued use of the hotel restaurant and rooftop area. Nor will the project, as conditioned, have a significant parking impact. The open air dining area will maintain the previously approved maximum of 7 tables and 20 chairs, and does not encroach into the public right of way. Conditions of approval intended to prevent any impacts related to noise are also included. The hotel has sufficient parking available within the hotel's on-site parking garage, and valet operations as well as entry to the hotel are provided from Burton Way. Conditions of approval relating to the frequency and hours of rooftop activities have been included to prevent impacts from evening functions. For these reasons, as conditioned, granting the Development Plan Review to allow operation of the relocated open air dining area is not anticipated to be detrimental to public health, safety, or general welfare.

Section 12. In considering the request to waive the required parking for the open air dining area, the Planning Commission considered whether it could make the following finding in support of the project:

1. The parking demand will be met by means other than those means specified in Section 10-3-2730 B(8) of the Beverly Hills Municipal Code.

Section 13. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the request to find that the required parking for the open air dining area can be met by existing on-site parking supply and valet operations:

1. Section 10-3-2730 B(8) of the Beverly Hills Municipal Code establishes that parking for open air dining on private property shall be provided as required for indoor dining areas. For this project site, there is a total of approximately 2,481 square feet of bar and dining area, including the proposed outdoor dining area. Thus, the project is subject to a parking requirement of one space per 45 square feet of bar and dining area. The interior bar and dining areas of the hotel are considered legally nonconforming with regard to parking, and there has not been an intensification of those uses that would require any additional parking. Of the total bar and dining area, the open air dining area that is the subject of these entitlements represents approximately 618 square feet, resulting in a parking requirement of 14 spaces. These 14 spaces are subject to the request to determine that parking can be met by on-site supply and valet operations. Past parking analyses have determined that the hotel has adequate parking for the proposed uses, and can accommodate the required parking demand through the use of valet parking. Conditions have been imposed that require provision of free parking for employees of the hotel to avoid the potential for employee parking to impact on-street parking in the vicinity of the project. In order to further reduce the potential for parking impacts, conditions have been imposed requiring the hotel to provide free valet parking for restaurant patrons. However, because it is impossible to require patrons of the restaurant to use valet parking, and because such patrons may impact the adjacent residential neighborhoods by using available street parking in the area, the Project has been further conditioned to prohibit the use of the hotel rooftop for more than two evening functions per week that involve more than 25 attendees other than hotel guests. Additionally, no more than 52 such functions are permitted during any calendar year. This condition will ensure that the potential increase in parking impacts to the neighboring residential streets generated by opening the restaurant to the public is counterbalanced with

limitations placed upon other potential parking impacts from the hotel's existing operation. A traffic and parking plan is also required to be submitted in connection with any rooftop function involving more than 25 attendees who are not hotel guests. This condition will further ensure that the Project will not have a substantial adverse impact on neighboring properties due to the occurrence of other events at the hotel that might place a strain on available parking and valet resources to be used by the project. For these reasons, as conditioned, the parking demand for the open air dining area can be met by the existing parking supply on-site and through the use of valet parking, and no additional parking is required.

Section 14. In considering the request for an Extended Hours Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

1. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of the accumulation of garbage, litter, or other waste, both on and off the subject site;
2. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of noise created by the extended hours operation or by employees or visitors entering or existing the extended hours operation;
3. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of light and glare;
4. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of odors and noxious fumes;

5. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of pedestrian queuing;

6. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of crime or peril to personal safety and security;

7. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of use of residential streets for parking which is likely to cause activity associated with the subject extended hours operation to intrude substantially into a residential area;

8. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of effects on traffic volumes and congestion on local residential streets; and

9. The extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

Section 15. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Extended Hours Permit:

1. As conditioned, the applicant is required to maintain the subject area in a clean and sanitary condition. There is an on-site trash compactor and trash storage areas, completely enclosed in the subterranean garage. For these reasons, as conditioned, operation of the hotel during extended hours will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of the accumulation of garbage, trash, or other waste, on or off the Project site.

2. The hotel restaurant faces Burton way and is completely enclosed. As conditioned, banquets or similar private receptions or parties are also prohibited in the restaurant. The open air dining area has been relocated to an area that is approximately 50 feet further east of the neighboring residential building to the west, and as conditioned, operation of the open air dining area will cease at 10:30 p.m. Both live entertainment and amplified music will be prohibited at all times in the open air dining area. The new stairway access to the open air dining area is located on private property directly adjacent to the main hotel entrance, and conditions have been imposed to prohibit patrons from queuing outside. As conditioned, evening functions on the rooftop are limited to twice per week unless authorized by the Director of Community Development, and such functions are limited to a total of 52 per calendar year. As conditioned, all rooftop functions will cease by 11:00 p.m. on Sundays through Thursdays, and by 12:00 a.m. midnight on Fridays, Saturdays, and evenings preceding holidays. For these reasons, as conditioned, operation of the hotel during extended hours will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of noise created by the extended hours operation or by employees or visitors entering or existing the hotel.

3. The restaurant is located on the ground floor, is fully enclosed, and is separated from neighboring residential properties by walls and a courtyard. The rooftop event space is located on the east side of the hotel building, and is screened from the properties to the west by the elevator shaft, mechanical enclosures, and pool cabanas. No lighting will be directed toward the neighboring properties. The hotel restaurant, open air dining area, and rooftop event space do not include the use of reflective surfaces that could potentially cause glare. For these reasons, as conditioned, operation of the hotel during extended hours will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of light and glare.

4. The restaurant kitchen is located inside the hotel, and cooking will not be performed outdoors. Approval of the Project will not alter the current venting of the kitchen and the City has received no evidence that the restaurant or rooftop currently create any odors or noxious fumes. For these reasons, hotel operations during extended hours will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of odors and noxious fumes.

5. The hotel restaurant faces Burton Way and is completely enclosed. As conditioned, banquets or similar private receptions or parties are also prohibited in the restaurant. The open air dining area has been relocated to an area that is approximately 50 feet further east of the neighboring residential building to the west, and as conditioned, operation of the open air dining area will cease at 10:30 p.m. Neither live entertainment nor amplified music is permitted at any time in the open air dining area. The new stairway access to the open air dining area is located on private property directly adjacent to the main hotel entrance, and conditions have been imposed to prohibit patrons from queuing outside. As conditioned, evening functions on the rooftop are limited to twice per week unless authorized by the Director of Community Development, and such functions are limited to a total of 52 per calendar year. As conditioned, all rooftop functions will cease by 11:00 p.m. on Sundays through Thursdays, and by 12:00 midnight on Fridays, Saturdays, and evenings preceding holidays. These conditions will limit the number of events at the hotel, and would ensure that any potential queuing would be limited to earlier evening hours to minimize potential noise or other impacts. For these reasons, as conditioned, the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of pedestrian queuing.

6. The project will operate in a manner that is substantially the same as was approved previously, and has existed for approximately the past 16 years. Based on a review of

police activity at the project site over the past two years, there have been numerous calls for service relating to excessive noise and parking violations. The police activity does not, however, seem to indicate significant evidence of crimes related to personal safety and security. Conditions have been included that establish a clear and escalating penalty structure in order to encourage compliance with conditions intended to reduce noise and parking violations. For these reasons, as conditioned, the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of crime or peril to personal safety and security.

7. The project will maintain the same maximum number of tables and chairs in the relocated open air dining area as previously approved. As conditioned, no additional events on the rooftop are allowed per calendar year beyond what was previously approved. Thus, approval of the project does not constitute any intensification of the past uses of the restaurant and rooftop. Additionally, the project is located on Burton Way, which is a major arterial street that can accommodate any incremental increases in traffic flow for the continued use of the hotel restaurant and rooftop area. For these reasons, as conditioned the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of use of residential streets for parking which is likely to cause activity associated with the subject extended hours operation to intrude substantially into a residential area.

8. Past parking analyses have determined that the hotel has adequate parking for the proposed uses, and can accommodate the required parking demand through the use of valet parking. Conditions have been imposed that require provision of free parking for employees of the hotel to avoid the potential for employee parking to impact on-street parking in the vicinity of the project. In order to further reduce the potential for parking impacts, conditions have been imposed requiring the hotel to provide free valet parking for restaurant patrons.

However, because it is impossible to require patrons of the restaurant to use valet parking, and because such patrons may impact the adjacent residential neighborhoods by using available street parking in the area, the project has been further conditioned to prohibit the use of the hotel rooftop for more than two evening functions per week that involve more than twenty-five attendees other than hotel guests. Additionally, no more than fifty-two such functions are permitted during any calendar year. This condition will ensure that the potential increase in parking impacts to the neighboring residential streets generated by opening the restaurant to the public is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation. A traffic and parking plan is also required to be submitted in connection with any rooftop function involving more than 25 attendees who are not hotel guests. This condition will further ensure that the project will not have a substantial and adverse impact on neighboring properties due to the occurrence of other events at the hotel that might place a strain on available parking and valet resources to be used by the project. For these reasons, as conditioned, the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood as a result of effects on traffic volumes and congestion on local residential streets.

9. The subject site is a nonconforming hotel in an R-4 Multi-Family zone. There are no other extended hours permits issued for any other commercial buildings in the adjacent neighborhood, which makes the hotel the only extended hours operation within the adjacent neighborhood. Additionally, conditions have been imposed that restrict the hours of operation of the hotel restaurant, open air dining area, and rooftop event space. Restrictions have also been imposed prohibiting pedestrian queueing on the Burton Way sidewalk. For these reasons, as conditioned, the extended hours operation will not substantially disrupt the peace and

quiet of the adjacent neighborhood as a result of cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

Section 16. Based on the foregoing, the Planning Commission hereby approves the requested entitlements. The following conditions include all relevant conditions of approval previously imposed on the subject site in past entitlements. The Project is subject to the following conditions:

Hotel Restaurant and Open Air Dining Area

1. The open air dining area shall be limited to a maximum of seven (7) tables and twenty (20) chairs.
2. The tables and chairs in the open air dining area shall be located in the patio area adjacent to the hotel entrance along Burton Way, as shown on the plans submitted to the Planning Commission, and shall not at any time be permitted to encroach into the public right-of-way.
3. No live entertainment or amplified sound shall be allowed in the open air dining area at any time.
4. No banquets or similar private receptions or parties shall be held at the restaurant. For the purposes of the condition, a banquet or similar private reception or party shall mean any banquet, party, reception or other event during which more than half of the restaurant is closed to the public except by invitation or advanced reservation.
5. The restaurant shall not seat any patron indoors before 6:30 a.m. or after 11:00 p.m. daily. Additionally, the open air dining patio operations of the restaurant, including

any movement of tables and chairs or the setting of dishes and silverware, shall commence no earlier than 8:00 a.m. and the restaurant shall not seat patrons in the open air dining area before 8:00 a.m. or after 9:00 p.m. daily. All diners shall have exited the outdoor dining area no later than 10:30 p.m.

6. The fountain in the courtyard area adjacent to the rotunda shall commence operation each morning at 7:30 a.m. seven days per week. The fountain shall not cease operation each day until the later of either the time when the last diner in the open air dining patio along Burton Way finishes dining and exits the patio, or 9:00 p.m. In addition, whether or not diners remain in the patio area, the fountain shall cease operation at 10:30 p.m. each night and all remaining diners shall exit the patio at that time. No open air dining activity shall occur when the fountain in the courtyard area adjacent to the rotunda is not in operation.

7. At the time that a reservation is accepted for dining at the restaurant, the holder of the reservation shall be informed that valet parking is available and offered free of charge to the restaurant patrons. The holder of the reservation shall also be asked to use the valet parking as a courtesy to the residential neighbors of the hotel.

8. Off street parking shall be provided free of charge to employees. Valet parking shall be provide free of charge to patrons of the restaurant.

9. All exterior doors to the restaurant, including the exterior doors closest to the adjacent residences to the west of the hotel shall only be used for emergency ingress and egress. However, the doors immediately adjacent to the open air dining area may be used by patrons to access the open air dining area from within the hotel restaurant, but shall not be held, propped, or otherwise kept open. Additionally, all food service to the open air dining area shall occur from the doors immediately adjacent to the open air dining area.

10. The applicant shall maintain a landscape buffer of sufficient height and density, satisfactory to the Director of Community Development or his/her designee (“Director”), to prevent the spilling over of light and to reasonably protect the privacy of the neighbors along the western property line of the hotel immediately adjacent to the restaurant. Such landscape buffer shall be maintained at all times during the operation of the open air dining area.

11. No queuing shall occur outside for the open air dining area. In cases where patrons cannot immediately be seated, patrons shall be directed to enter the hotel lobby to await seating.

12. The hotel shall not accept any deliveries except during the hours of 8:00 a.m. through 9:00 p.m., Monday through Friday, 9:00 a.m. through 9:00 p.m. on Saturday, and 9:00 a.m. through 8:00 p.m. on Sunday.

13. Delivery trucks shall be prohibited from blocking the alley, including the areas providing access to neighboring properties’ parking garages. In addition, the Director of Community Development may impose additional conditions on loading operations and/or the location of loading to achieve the greatest level of neighborhood compatibility. In no event shall the permitted hours of loading be extended beyond those set forth in Condition No. 12 above.

14. The applicant shall not instruct or otherwise encourage, directly or indirectly, any driver of any taxi or limousine to park on any residential street in the vicinity of the hotel, including but expressly not limited to, the south side of Burton Way. When the topic arises, hotel staff shall be instructed to encourage drivers of taxis and/or limousines not to park on any residential street in the vicinity of the hotel, including but expressly not limited to, the south side of Burton Way. The applicant shall also attempt to clearly identify, through the use of

a special vehicle tag or other similar means, those limousines that are contracted to the hotel in order to provide an adequate enforcement tool to insure that these vehicles do not park on any residential streets in the vicinity of the hotel.

15. The applicant shall maintain all restaurant areas as well as the public right of way directly adjacent to the subject property in a clean and sanitary condition at all times.

Rooftop Events

16. Evening functions on the rooftop of the hotel involving more than 25 attendees, excluding persons residing at the hotel, shall not occur more than fifty-two (52) times during any calendar year. For the purposes of this condition, “evening function” shall mean any function which does not conclude before 6:00 p.m.

17. Evening functions on the rooftop of the hotel shall not occur more than twice during any week (Monday through Sunday). However, the applicant may submit a request to the Director of Community Development or his/her designee (“Director”) to allow one additional event, for a total of three events within a single week, one time during the months of January through March. Any additional events granted pursuant to this request shall be counted toward the maximum of fifty-two (52) events during the calendar year. For the purposes of this condition, “evening function” shall mean any function which does not conclude before 6:00 p.m.

18. Prior to any evening function, the Applicant shall submit a traffic and parking plan for the evening function to the Director of Community Development or his/her designee (“Director”) for approval. No such function shall take place until such traffic and parking plan is approved by the Director. The Director may, without limitation, require the traffic and parking plan to address limousine parking and to include free off-site parking for employees and the provision of adequate valet parking attendants so that, in the Director’s

judgment, adequate parking and valet service will be available at the site to prevent parking, traffic, and noise impacts from intruding into the adjacent neighborhood. For the purposes of this condition, “evening function” shall mean any function which does not conclude before 6:00 p.m.

19. The applicant shall file with the Director of Community Development or his/her designee (“Director”) on the last day of each month a written schedule of the dates and times of each evening function of 25 or more attendees, excluding persons residing at the hotel, planned for the following month. The applicant shall provide the Director with a written amendment to that schedule at any time that a new function is added to the schedule or there is a change in the date or time of any originally listed function. Any such amendment shall be provided at least 48 hours before commencement of the function that is the subject of the amendment. Notwithstanding this condition, the applicant shall have the right to submit a request to the Director for an amendment to the schedule of functions less than 48 hours before commencement of the function. For the purposes of this condition, “evening function” shall mean any function which does not conclude before 6:00 p.m.

20. All rooftop events, including associated live entertainment and amplified sound, shall conclude no later than 10:00 p.m., and all rooftop event attendees shall have vacated the rooftop by 11:00 p.m. Sundays through Thursdays. All rooftop events, including associated live entertainment and amplified sound, shall conclude no later than 11:00 p.m., and all rooftop event attendees shall have vacated the rooftop by 12:00 midnight on Fridays, Saturdays, and evenings preceding a holiday.

21. Deliveries, setup, and/or breakdown for any rooftop functions shall not occur except during the hours of 8:00 a.m. through 9:00 p.m., Monday through Friday, 9:00 a.m. through 9:00 p.m. on Saturday, and 9:00 a.m. through 8:00 p.m. on Sunday.

22. At all times the hotel shall operate in compliance with the City’s noise ordinance.

Penalties for Violations

23. The applicant shall submit to the City a cash deposit of \$20,000 from which to draw financial penalties in case of any violations of the conditions of approval. If and when the deposit balance reaches \$10,000 or less, the applicant shall submit to the City within five (5) business days additional funds in an amount sufficient to bring the deposit balance back to \$20,000.

24. Upon verification of evidence that a violation of any condition of approval contained herein has occurred, financial penalties shall be withdrawn from the cash deposit in the following amounts for each violation within a single calendar year:

1st Violation	2nd Violation	3rd Violation	4th Violation	5th Violation	Subsequent Violations
\$500	\$1,000	\$5,000	\$10,000	\$10,000	\$10,000 and automatically returned to Planning Commission for review and possible revocation. All application fees would be required in addition to the assessed penalty.

The applicant shall be provided a written notice of decision to withdraw the penalty charge, and shall be provided with the evidence demonstrating the occurrence of the violation, and shall have the right to appeal the decision to withdraw the penalty charge from the cash deposit to the Director of Community Development within 14 days of the issuance of the City’s notice of the determination. A written notice of the Director’s decision shall be provided to the applicant, who shall have the right to appeal the decision to the Planning Commission within 14 days of the

issuance of the notice of the Director's decision. The decision of the Planning Commission shall be final, and the applicant shall have no further right to appeal. Upon verification of evidence that six (6) or more violations of any conditions of approval contained herein have occurred within a single calendar year, in addition to the financial penalties, the entitlements shall be referred to the Planning Commission for further review, and possible revocation. All costs associated with such hearing shall be fully borne by the Applicant.

25. Notwithstanding the provisions of condition 24 above, the City expressly reserves all rights to undertake any and all enforcement actions within its authority should it choose to do so, and shall not be obligated to first exhaust the penalty structure as outlined in conditions 24 through 29 above.

26. Within thirty (30) days after the adoption of this resolution, the applicant shall submit to the City a deposit of \$10,000 for the purpose of offsetting the costs of Code Enforcement activities associated with the project.

27. RECORDATION. This resolution approving the Conditional use Permit, Development Plan Review, and Extended Hours Permit shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Planning & 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 Planning & 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.

28. APPROVAL RUNS WITH LAND. The approvals and conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the permits.

29. EXPIRATION AND RENEWAL. The Conditional Use Permit, Development Plan Review, and Extended Hours Permit shall expire twelve (12) months from the date of this approval. Upon application by the Applicant filed at least 30 days prior to the expiration of such permit, the Planning Commission may extend the Permit if the reviewing authority determines that the uses are being operated in a manner approved by the Planning Commission, are abiding by the conditions imposed by the Planning Commission, and are not creating significant adverse impacts on the surrounding neighborhood. Permits shall remain valid until such a time as a decision on a timely filed extension application is made by the Planning Commission. The Applicant shall file all necessary applications and pay all applicable fees associated with said extension requests. Furthermore, in the event the Director of Community Development believes the hotel may not be in compliance with the extended hours permit provisions, the Director of Community Development or their designee, at their discretion, may require the project be returned to the Planning Commission for further review and analysis prior to the expiration of the entitlements. The Applicant shall file all necessary applications and pay all applicable fees associated with said review.

Section 17. 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: May 2, 2016

Alan Robert Block
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary
Ryan Gohlich, AICP
City Planner / Assistant Director
of Community Development

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

Ryan Gohlich, AICP
City Planner / Assistant Director
of Community Development