



Planning Commission Report

9291 Burton Way (L'Ermitage Hotel)

May 2, 2016

Attachment G

Past CUP and DPR Resolutions
(in chronological order)

RESOLUTION NO. 1094

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY ISSUING A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AND GRANTING A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AT PROPERTY LOCATED AT 9291 BURTON WAY (L'ERMITAGE HOTEL)

Section 1. Ronald Orr, on behalf of L'Ermitage Hotel (hereafter "Applicant"), has submitted an application for a Conditional Use Permit and Development Plan Review Permit to allow a public restaurant within a nonconforming hotel and to allow open air dining at property located at 9291 Burton Way (hereafter "Project"). Title 10, Chapter 3, Article 12 of the Beverly Hills Municipal Code provides that a public restaurant may be permitted within a nonconforming hotel in a multiple-family residential zone if the Planning Commission issues a Conditional Use Permit (hereafter "C.U.P.") for the restaurant. Furthermore, the Municipal Code provides that open air dining may be permitted within a nonconforming hotel if the Planning Commission issues a Development Plan Review Permit (hereafter "D.P.R.") to allow the open air dining.

Section 2. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project may have

any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 3. On February 24, March 24, 1999, and April 28, 1999, the Planning Commission held a duly noticed public hearing to consider the application. Evidence, both written and oral, was presented at said hearing.

Section 4. In considering the application for the C.U.P., the Planning Commission considered whether the restaurant will be detrimental to adjacent property or the public welfare or will have a substantial adverse impact on the use and enjoyment of surrounding residential properties. As part of its determination, the Planning Commission considered whether the restaurant will be detrimental to adjacent property or the public welfare or will have a substantial adverse impact on the use and enjoyment of surrounding residential properties due to:

- (1) the accumulation of garbage, trash, or other waste;
- (2) noise created by the operation of the restaurant or by employees or visitors entering or exiting the restaurant;
- (3) light and glare;
- (4) odors or noxious fumes;

- (5) parking demand created by the restaurant, including parking demand created by employees; or
- (6) traffic.

The Planning Commission also considered the following criteria:

(a) Whether the hotel is located on a street identified as an "arterial" street or "collector" street in the City's General Plan;

(b) Whether the dining and bar floor area of all restaurants and private dining rooms in the hotel exceeds the floor area of any dining and bar area that existed on or before November 1, 1995;

(c) Whether there would be any live entertainment performed;

(d) Whether banquets or similar private receptions or parties are to held at the restaurant;

(e) Whether patrons of the restaurant are to be seated after 11:00 p.m.; and

(f) Whether parking is provided free of charge to employees to ensure that employees do not park in the public right-of-way.

Section 5. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds as follows:

1. As conditioned, the restaurant will not be detrimental to adjacent property or the public welfare and will

not have a substantial adverse impact on the use and enjoyment of surrounding residential properties.

The proposed Project is consistent with the General Plan of the City. The General Plan encourages stability in the land use pattern of the City. The Project will allow a long standing non-conforming dining use to continue at the Project site.

As conditioned, the proposed Project will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project, as conditioned, have a significant parking impact. The Project is limited to twenty (20) tables with seating for forty-eight (48) persons. The outdoor dining area is limited to seven (7) tables with seating for twenty (20) persons and does not encroach into the public right-of-way. Also, the Project site will have valet parking and has sufficient on-site space to accommodate one hundred thirty-six (136) cars parked by valet attendants.

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 further been conditioned upon there not being any larger functions on the rooftop (i.e. functions involving more than 25 non-hotel guests), which functions could create further parking intrusions into adjacent neighborhood areas, without first closing the outdoor dining facility. Such condition will ensure that any potential

increase in parking impacts to the neighboring street generated by opening the restaurant to the public and expanding the restaurant into the outdoor area is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation.

Additionally, a traffic and parking plan is required to be submitted in connection with any rooftop functions of greater than 25 persons to ensure that in granting the Applicant the right to have a facility with an intensified use on the ground-floor level, other impacts associated with the Project are mitigated so that the totality of impacts of the commercial hotel operation on the neighboring properties is not excessive.

The Applicant has requested a waiver of the 32 parking spaces required by the restaurant use (one space is required for every 45 square feet of dining area). The Commission finds that the provision of valet parking at the site coupled with the conditions upon the rooftop functions will minimize any cumulative parking impacts that may otherwise be generated by the expanded restaurant use. Also, as indicated, the hotel has 124 rooms and 136 on-site parking spaces (including 16 aisle spaces). As conditioned, sufficient parking should exist without the provision of the 32 parking spaces.

Additionally, due to the Project's location on a major arterial street, Burton Way, which can accommodate the potential increases in traffic flow from the expanded restaurant use, the Project, as conditioned, should not create any other

significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards.

Parking by employees is not anticipated to impact neighboring properties or otherwise impact traffic, as employees are provided parking by the hotel free of charge and the number of employees is not significantly increasing due to the opening of the restaurant to the public or the addition of the outdoor dining facility.

2. The Project will not be detrimental to adjacent property or the public welfare and will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties for the following additional reasons:

The proposed Project faces Burton Way and is completely enclosed with no direct access from the sidewalk. The area proposed for dining is about 30 percent of the total patio area and is located in the section of the patio that is farthest away from any adjacent property. Also, operation of the open air dining area will cease at 11:00 p.m. and both live entertainment and amplified music will be prohibited at all times in the open air dining area. Banquets or similar private receptions or parties are prohibited in the restaurant.

Also, as stated, the operation of the open air dining area is further conditioned upon its being closed during periods where larger functions on the rooftop are occurring that may have intrusive noise or traffic impacts in the vicinity of the project. Such large functions on the rooftop have also been limited to one per week as a condition of the outdoor dining

approval. Such conditions ensure that neighbors in the vicinity will not have to be subjected either simultaneously or frequently to excessive noise and/or traffic problems from patrons of the restaurant and persons attending larger rooftop functions. These conditions are designed so that the number of potential impacts and intrusions from the commercial hotel upon the neighboring properties (i.e., parking, foot-traffic, noise, privacy), which the Commission is allowing to increase through the granting of these permits, is tempered through limiting the frequency and intensity by which any one of the potentially intrusive impacts is allowed to occur. For these reasons, the Project, as conditioned, should not be detrimental to adjacent property or the public welfare or otherwise create substantial and adverse impacts in the surrounding residential neighborhoods.

It is also important to note that the proposed Project has been designed to be compatible with surrounding developments. The Project will not alter the scale or height of the existing building.

3. The Project, as conditioned, will not significantly interfere with the use and enjoyment of residential properties in the vicinity for the additional reason that entry and exiting from the restaurant will occur through the interior of the hotel. Although the potential for additional noise impacts exists from the intensified use of the restaurant, either through added noise from the outdoor diners or from the added outdoor restaurant operations, and, although additional intrusions upon the privacy of the neighbors may occur through

added activities such as restaurant patrons leaving their seats to make use of the adjacent patio area (which area is within the sight path of the adjacent residential property), conditions are being imposed upon other potentially intrusive functions of the hotel operation, such as the number, size and frequency of rooftop functions, to ensure that the totality of impacts of the hotel's commercial operation will not interfere with the neighboring residential property owners' use of their residences.

The neighboring residential units closest to the restaurant's operation also have the option of being retrofitted with dual-glazed windows to further prevent noise intrusions into the units and the hours of operation of the restaurant and outdoor dining facility are being restricted so that the potential for intrusive impacts are further minimized. Service of food will occur through a door to the outdoor facility that is furthest away from the adjacent residential units so as to further limit any noise or privacy impacts on the neighbors' residences.

4. As conditioned, no garbage, trash or other waste from the Project will adversely impact neighboring properties. 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 area, completely enclosed in the subterranean garage.

5. Due to the nature of the proposed Project, no significant light or glare from the Project will impact neighboring properties. The open air dining area faces Burton

Way and no lighting will be directed toward residential properties.

6. Due to the nature of the proposed Project, no odors or noxious fumes will result from the Project. Cooking will not be performed in the open air dining area. Approval of the project will not alter the current venting of the kitchen and the Commission has received no evidence that the restaurant currently creates odors or noxious fumes.

7. Finally, the dining bar and floor area of all restaurants and private dining rooms in the hotel is not being expanded beyond that which was in place as of November 1, 1995. Therefore, the impacts from the proposed Project are further minimized.

Section 6. In considering the application for the Development Plan Review Permit, the Planning Commission considered the following issues:

1. Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;

2. Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area;

3. Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards;

4. Whether the proposed plan will be detrimental to the public health, safety or general welfare; and

5. Whether the nature, configuration, location, density, height and manner of operation of the proposed commercial development will significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

6. Whether the proposed plan will create any significantly adverse parking impacts as a result of employee or patron parking demand.

7. Whether the proposed plan will significantly and adversely affect neighboring properties due to:

- a. The accumulation of garbage, trash or other waste;
- b. Noise created by operation of the dining area or by employees or visitors entering or exiting the site;
- c. Light and glare;
- d. Odors or noxious fumes.

Section 7. Based upon the evidence presented, including the staff report and oral testimony, and for all of the reasons set forth in Section 5 above, the Planning Commission hereby finds:

1. The proposed Project is consistent with the General Plan of the City.

2. As conditioned, the proposed Project will not create any significantly adverse traffic impacts, traffic safety

hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project have a significant parking impact.

3. As conditioned, the proposed Project will not adversely affect existing and anticipated development in the vicinity, will promote harmonious development of the area, and will not be detrimental to the public health, safety and welfare.

4. As conditioned, the nature, configuration, location, density, height and manner of operation of the proposed Project will not significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property.

5. As conditioned, no garbage, trash or other waste from the Project will adversely impact neighboring properties.

6. As conditioned, any noise impact that will be created by the Project or by employees or visitors entering or exiting the Project will be minimized.

7. Due to the nature of the proposed Project, no significant light or glare from the Project will impact neighboring properties.

8. Due to the nature of the proposed Project, no odors or noxious fumes will result from the Project.

Section 8. Based upon the foregoing, the Planning Commission hereby issues a C.U.P. to permit the operation of a public restaurant at the Project site. The Planning Commission also hereby issues a D.P.R. for open air dining at the Project

site as shown on the plans submitted to the Commission. These permits are subject to the following conditions:

1. The open air dining shall be limited to seven (7) tables and twenty (20) chairs.

2. The tables and chairs shall be located in the patio area adjacent to the existing building 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.

4. No banquets or similar private receptions or parties shall be held at the restaurant. For the purposes of this Section, a banquet or similar private reception or party shall mean any banquet, party, reception or other event during which the restaurant, or a substantial portion of the restaurant, is closed to the public except by invitation or advanced reservation.

5. The hours of operation of the restaurant (indoor) shall be from 6:30 a.m. to 11:00 p.m. daily.

6. The patio operations of the restaurant shall commence no earlier than 8 a.m. and the restaurant shall not seat patrons after 9 p.m. daily. The patio operations of the restaurant shall cease when the outdoor fountain adjacent to the patio area is not in operation.

7. Off street parking shall be provided free of charge to employees.

8. Except for the doors immediately adjacent to the outdoor dining area, any exterior doors to the restaurant or exterior doors providing access to the outdoor dining area shall remain closed at all times except for the immediate purpose of ingress or egress. Additionally, all food service to the outdoor dining area shall occur from the doors immediately adjacent to the outdoor dining area. The exterior restaurant doors closest to the adjacent residence to the west of the hotel shall only be used for emergency ingress and egress.

9. Functions on the rooftop of the hotel involving more than 25 attendees, excluding persons residing at the hotel, shall not occur more than once a week. While such functions of 25 attendees or more are occurring, the hotel shall close the outdoor dining facility on the street level. Additionally, prior to any such function of 25 persons or more occurring on the rooftop, the Applicant shall submit a traffic and parking plan for the function to the Director of Transportation for her approval. No such function shall take place until such traffic and parking plan is approved by the Director of Transportation. The Applicant shall file with the Director of Planning on the last day of each month a written schedule of the dates and times of each function of 25 or more attendees planned for the following month. The Applicant shall provide the Director of Planning with a written amendment to that schedule any time there is a new event added to the schedule or there is a change in the dates or times of any originally listed events. Any such

amendment shall be provided at least 48 hours before the event that is the subject of the amendment is to occur.

10. If the affected residents and property owners so desire, the Applicant shall take all reasonable actions necessary to retrofit with dual-glazed glass the windows located on the facade of the neighboring building immediately adjacent to the restaurant and outdoor dining facility. The Applicant shall pay the reasonable costs of such retrofitting. The Applicant is only required to take those steps and cover such costs that, in the opinion of the Director of Building and Safety, are reasonable to effect this condition. If in the opinion of the Director of Building and Safety the Applicant has taken such reasonable steps and paid or offered to pay such reasonable costs and the installation of the dual-glazed glass windows has still not been completed, Applicant will be deemed to have satisfied this condition. Any decision of the Director of Building and Safety in this regard is appealable to the Planning Commission pursuant to a noticed public hearing.

11. The fountain in the patio area adjacent to the outdoor dining area shall operate from 7:30 a.m. to 10:30 p.m, seven days a week.

12. The Applicant shall install a landscape buffer of sufficient height and density 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.

13. All conditions of the valet parking permit shall be incorporated as conditions of approval of this C.U.P. and D.P.R.

14. The C.U.P. and D.P.R. shall expire one year after the date of adoption of this resolution. Unless the C.U.P. and D.P.R. are renewed, or a new C.U.P. and D.P.R. are issued, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area. The Applicant shall have no right to renewal of the C.U.P. or D.P.R. Any application for renewal of the C.U.P. and D.P.R. must be filed at least sixty days prior to the expiration of these approvals.

15. The 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.

16. Within thirty (30) days after the adoption of this Resolution, the Applicant shall present to the City a signed covenant, signed by the Applicant and the property owner and satisfactory to the City Attorney, and in a form recordable by the Los Angeles County Recorder, accepting these conditions of approval.

This resolution shall be attached as an exhibit to the covenant.

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.

17. Within three working days after approval of this resolution, the Applicant shall remit to the City a cashier's

check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.

Section 8. Nothing in this resolution shall be interpreted to limit the authority of the City to impose conditions on the approval of any valet parking permit application.

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

Adopted: April 28, 1999



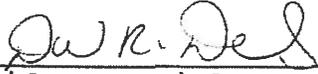
Linda J. Briskman
Chairman of the Planning
Commission of the City of
Beverly Hills, California

ATTEST:



Secretary

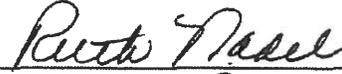
Approved as to form:



David R. Daniels
Assistant City Attorney

5/13/99

Approved as to content:



Ruth Nadel *DR*
Director of Planning &
Community Development

RESOLUTION NO 99-R-1071:

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AFFIRMING THE DECISION OF THE PLANNING COMMISSION CONDITIONALLY APPROVING A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AND A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY TO BE OPEN TO THE PUBLIC AT PROPERTY LOCATED AT 9291 BURTON WAY (L'ERMITAGE HOTEL)

The City Council of the City of Beverly Hills does resolve as follows:

Section 1 The Beverly Hills South Side Neighborhood Association in conjunction with the Beverly Hills North Homeowner's Association and the Beverly Hills Municipal League; and the applicant L'Ermitage Hotel, have submitted appeals of the Planning Commission decision conditionally approving a Development Plan Review Permit for open air dining and conditionally approving a Conditional Use Permit to allow a hotel dining facility to be open to the public at property located at 9291 Burton Way (the "Project") The appeals of the Planning Commission decision to the City Council were timely filed

Section 2. On April 28, 1999, the Planning Commission held a duly noticed public hearing to consider the application for the Project filed by the L'Ermitage Hotel (the "Applicant"). Evidence, both written and oral, was presented at said hearings. Based upon the evidence presented to it, the Planning Commission approved the Project, subject to certain conditions

Section 3. On July 20, 1999, the City Council held a duly noticed public hearing to consider the appeals. Evidence, both written and oral, including the staff report and supporting documentation, was presented at that hearing. At the conclusion of the public hearing, the Council directed staff to prepare a resolution affirming the decision of the Planning Commission and denying the appeals.

Section 4 Based upon the evidence presented regarding the application for the Conditional Use Permit, the City Council hereby finds:

1 As conditioned, the restaurant will not be detrimental to adjacent property or the public welfare and will not have a substantial adverse impact on the use and enjoyment of surrounding residential properties for the reasons described below

As conditioned, the proposed Project will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project, as conditioned, have a significant parking impact. The Project is limited to twenty (20) tables with seating for forty-eight (48) persons. The outdoor dining area is limited to seven (7) tables with seating for twenty (20) persons and does not encroach into the public right-of-way. The Project site will have valet parking and has sufficient on-site space to accommodate one hundred thirty-six (136) cars parked by valet attendants. A parking analysis has

indicated that the available parking will be sufficient to meet the needs of the Project

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 further been conditioned to limit its impact on the surrounding residential area by prohibiting 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 streets, and the associated intrusion into the residential character of the neighborhood, generated by opening the restaurant to the public and expanding the restaurant into the outdoor area is counterbalanced with limitations placed upon other potential parking impacts from the hotel's existing operation

Additionally, a traffic and parking plan is 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 Applicant has requested a waiver of the 32 parking spaces required by the restaurant use (one space is required for every 45 square feet of dining area). The City Council finds that the provision of valet parking at the site coupled with the conditions placed upon the conduct of rooftop functions will minimize any cumulative parking impacts that may otherwise be generated by the expanded restaurant use. Also, as indicated, the hotel has 124 rooms and 136 on-site parking spaces (including 16 aisle spaces). As conditioned, and based on the parking analyses presented to the City Council, sufficient parking is available to serve the Project without the provision of an additional 32 parking spaces.

Due to the Project's location on a major arterial street, Burton Way, which can accommodate the potential increases in traffic flow from the expanded restaurant use, the Project, as conditioned, should not create any other significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards.

Parking by employees is not anticipated to impact neighboring properties or otherwise impact traffic, as employees are provided parking by the hotel free of charge and the number of employees is not significantly increasing due to the opening of the restaurant to the public or the addition of the outdoor dining facility.

2 The Project will not be detrimental to adjacent property or the public welfare and will not have a substantial adverse impact on the use and enjoyment of surrounding

residential properties due to noise for the following additional reasons

The proposed Project faces Burton Way and is completely enclosed with no direct access from the sidewalk. The area proposed for dining is approximately 30 percent of the total patio area and is located in the section of the patio that is furthest from the neighboring residential property. Also, operation of the open air dining area will cease at 10:30 p.m. and both live entertainment and amplified music will be prohibited at all times in the open air dining area. Banquets or similar private receptions or parties are also prohibited in the restaurant.

For these reasons, and based on the noise studies and consultant reports presented to the City Council, the Project, as conditioned, should not be detrimental to adjacent property or the public welfare due to noise or otherwise create substantial and adverse impacts in the surrounding residential neighborhoods.

3. The Project, as conditioned, will not significantly interfere with the use and enjoyment of residential properties in the vicinity for the additional reason that entry and exiting from the restaurant will occur through the interior of the hotel. Although the potential for additional noise impacts exists from the intensified use of the restaurant, either through added noise from the outdoor diners or from the added outdoor restaurant operations, and, although additional intrusions upon the privacy of the neighbors may occur through

added activities such as restaurant patrons leaving their seats to make use of the adjacent patio area (which area is within the sight path of the adjacent residential property), conditions are being imposed upon other potentially intrusive functions of the hotel operation, such as the number, size and frequency of rooftop functions, to ensure that the impacts of the hotel's commercial operation as a whole, including the outdoor dining, will not interfere with the neighboring residential property owners' use of their residences

The neighboring residential units closest to the restaurant's operation also have the option of being retrofitted with dual-glazed windows to further prevent noise intrusions into the units and the hours of operation of the restaurant and outdoor dining facility are being restricted so that the potential for intrusive impacts are further minimized. Service of food will occur through a door to the outdoor facility that is furthest from the adjacent residential units so as to further limit any noise or privacy impacts on the neighbors' residences.

4. As conditioned, no garbage, trash or other waste from the Project will adversely impact neighboring properties. 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 area, completely enclosed in the subterranean garage.

5. Due to the nature of the proposed Project, no significant light or glare from the Project will impact neighboring properties. The open air dining area faces Burton

Way and no lighting will be directed toward residential properties

6 Due to the nature of the proposed Project, no odors or noxious fumes will result from the Project. Cooking will not be performed in the open air dining area. Approval of the project will not alter the current venting of the kitchen and the City Council has received no evidence that the restaurant currently creates odors or noxious fumes.

Section 5. Based upon the evidence presented regarding the application for the Development Plan Review Permit, the City Council hereby finds

1 The proposed Project is consistent with the General Plan of the City. The General Plan encourages stability in the land use pattern of the City. The Project will allow a long standing non-conforming dining use to continue at the Project site. The Project incorporates mechanisms such as landscaping, screening and operational measures to mitigate the potential impact on adjacent residential uses.

2. As conditioned, for the reasons set forth above, the proposed Project will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed Project have a significant parking impact.

3. As conditioned, for the reasons set forth above, the proposed Project will not adversely affect existing and anticipated development in the vicinity, will promote harmonious

development of the area, and will not be detrimental to the public health, safety and welfare

4. As conditioned, for the reasons set forth above, the nature, configuration, location, density, height and manner of operation of the proposed Project will not significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property

5. As conditioned, for the reasons set forth above, no garbage, trash or other waste from the Project will adversely impact neighboring properties.

6. As conditioned, for the reasons set forth above, any noise impact that will be created by the Project or by employees or visitors entering or exiting the Project will be minimized

7. Due to the nature of the proposed Project, for the reasons set forth above, no significant light or glare from the Project will impact neighboring properties

8. Due to the nature of the proposed Project, for the reasons set forth above, no odors or noxious fumes will result from the Project

Section 6. Based on the foregoing, the City Council hereby affirms the Planning Commission decision and conditionally approves a Development Plan Review Permit for open air dining, conditionally approves a Conditional Use Permit to allow a hotel dining facility to be open to the public, and waives additional

parking requirements at property located at 9291 Burton Way
subject to the following conditions:

1 The open air dining shall be limited to 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 existing
building and easterly of that building as shown on the plans
submitted to the City Council 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

4. No banquets or similar private receptions or
parties shall be held at the restaurant. For the purposes of
this Section, a banquet or similar private reception or party
shall mean any banquet, party, reception or other event during
which the restaurant, or a substantial portion 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
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 patio area adjacent to the outdoor dining area shall commence operation each morning at 7:30 a.m., seven days per week. The fountain shall cease operation each day when the last diner in the patio area finishes dining and exits the patio. The last patron shall not be presumed to have exited the patio at any time before 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 outdoor dining activity shall occur when the outdoor fountain adjacent to the patio area 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 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 provided free of charge to patrons of the restaurant.

9. Except for the doors immediately adjacent to the outdoor dining area, all exterior doors to the restaurant and exterior doors providing access to the outdoor dining area shall remain closed at all times except for the immediate purpose of ingress or egress. Additionally, all food service to the outdoor dining area shall occur from the doors immediately adjacent to the outdoor dining area. The exterior restaurant doors closest

to the adjacent residence to the west of the hotel shall only be used for emergency ingress and egress

10. Evening functions on the rooftop of the hotel involving more than 25 attendees, excluding persons residing at the hotel, shall not occur more than twice during any week (Monday through Sunday) In addition, such evening functions shall not occur more than fifty-two times during any calendar year. Prior to any such evening function, the Applicant shall submit a traffic and parking plan for the evening function to the Director of Transportation for the Director's approval. No such function shall take place until such traffic and parking plan is approved by the Director of Transportation. 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 judgement, adequate parking and valet service will be available at the site to prevent parking, traffic and noise impacts from intruding into the adjacent residential neighborhood The Applicant shall file with the Director of Planning 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 of Planning with a written amendment to that schedule at any time that a new evening 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. For the purposes of this Condition No 10, "evening function" shall mean any function which does not conclude before 6:00 p.m.

11. If the affected residents and property owners so desire, the Applicant shall pay the reasonable costs necessary to retrofit with dual-glazed glass the windows located on the facade of the neighboring building immediately adjacent to the restaurant and outdoor dining area. The Applicant is only required to pay such costs that, in the opinion of the Director of Building and Safety, are reasonable to effect this condition. If in the opinion of the Director of Building and Safety the Applicant has taken such reasonable steps, including arrangements as necessary to avoid any out of pocket expense to the adjacent property owner, as are necessary to effect this condition, but the apartment owner or apartment tenants have failed to cooperate to effect this condition, then the Applicant will be deemed to have satisfied this condition. Any decision of the Director of Building and Safety in this regard is appealable to the Planning Commission pursuant to a noticed public hearing.

12. The Applicant shall install a landscape buffer of sufficient height and density, satisfactory to the Director of Planning, 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 installed prior to operation of the outdoor dining area.

13. The Applicant shall not accept any delivery except during the following hours 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

14 All conditions of the valet parking permit for the hotel, as they now exist or as they may be amended in the future, shall be incorporated as ccnditions of approval of this C.U.P. and D.P.R.

15. This C.U.P and D.P R. shall expire one year after the date of adoption of this resolution and all rights granted by this C.U P and D.P.R. shall terminate at that time. Unless the C.U.P. and D.P.R. are renewed, or a new C U P and D.P.R. are issued, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area. The Applicant shall have no right to renewal of the C.U P. or D.P.R. Any application for a new C U P and D P R. must be filed at least sixty days prior to the expiration of these approvals.

16. The 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

17. Within thirty (30) days after the adoption of this Resolution, the Applicant shall present to the City a signed covenant, signed by the Applicant and the property owner and satisfactory to the City Attorney, and in a form recordable by the Los Angeles County Recorder, accepting these conditions of approval. The covenant shall include a statement, satisfactory to the City Attorney, specifically acknowledging that the

Applicant understands that unless a new C U.P. and D.P R. are issued, the Applicant has no right to continue to operate the public restaurant and outdoor dining facility after expiration of the C.U P. and D.P R. The statement shall also provide that the Applicant understands that any application for a new C U.P. and D P.R. shall be evaluated as a new application and the Applicant has no right or understanding that a new C.U.P. or D P R. shall be issued.

This resolution shall be attached as an exhibit to the covenant.

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

18. Within three working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711 4, then the Applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.

19. Each condition set forth in this resolution and imposed on the Project as part of this C U.P and D.P.R. is essential to the City Council's findings to approve the C.U.P. and D P.R. Therefore, to the extent that any condition set forth in this resolution is invalidated by a court of competent

jurisdiction, the C U.P. and D.P R shall be considered to be invalid in their entirety and the applicant shall have no right to exercise any privilege granted by the C.U P and D.P.R.

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

Adopted August 3, 1999

THOMAS S. LEVYN
Mayor of the City of
Beverly Hills, California

ATTEST:

(SEAL)
NINA WEBSTER
City Clerk

Approved as to form

for
LAURENCE S WIENER
City Attorney

Approved as to content.

for
MARK SCOTT
City Manager

RUTH NADEL
Director of Planning &
Community Development

For

RONALD B. CLARK
Director of Building and
Safety

RESOLUTION NO. 1138

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RENEWING A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AND A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY (L'ERMITAGE) AT 9291 BURTON WAY TO CONTINUE TO BE OPEN TO THE PUBLIC

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS
DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On August 3, 1999 the City Council approved Resolution No. 99-R-10211 issuing a development plan review ("D.P.R.") permit for open air dining and granting a conditional use permit ("C.U.P.") to Lahotel (hereafter "Applicant") to allow a hotel dining facility to be open to the public, at 9291 Burton Way for L'Ermitage Hotel. The City Council's decision was subject to 19 conditions to minimize impacts of the Project on neighboring residential properties.

Section 2. Condition No. 15 of Resolution No. 99-R-10211 states that the C.U.P. and D.P.R. shall expire one year after the date of adoption of Resolution No. 99-R-10211, unless the C.U.P. and D.P.R. are renewed. The expiration date of these approvals is August 3, 2000.

Allan Cooper, of the law firm of Ervin, Cohen and Jessup, on behalf of the Applicant, submitted an application to renew these approvals on June 1, 2000.

Section 3. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the project or to the environment that would cause the project to significantly impact the environment. Therefore, the original negative declaration and mitigation measures imposed represent the independent judgment of the City and there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 4. On July 13, 2000, the Planning Commission held a duly noticed public hearing to consider the application for renewal. Evidence, both written and oral, was presented at said hearing.

Section 5. Based upon the foregoing, the Planning Commission hereby finds that as conditioned under Resolution No. 99-R-10211, the operation of the restaurant and outdoor dining has not had an adverse impact on the surrounding neighborhood, there have been no violations of the conditions of the D.P.R. or the C.U.P., and there have been no violations of the Beverly Hills Municipal Code. Therefore, the Planning Commission hereby adopts the findings set forth in Resolution No. 99-R-10211, and renews the C.U.P. and D.P.R. for an additional one year period, subject to all conditions set forth in Resolution No. 99-R-10211 except as modified below:

1. Condition No. 15 of Resolution No. 99-R-10211 is hereby deleted. This C.U.P. and D.P.R. shall expire one year after the date of adoption of this resolution and all rights granted by this C.U.P. and D.P.R. shall terminate at that time. Unless the C.U.P. and D.P.R. are renewed, or a new C.U.P. and D.P.R. granted, the Applicant shall immediately cease operation of the public restaurant and the outdoor dining area. The Applicant shall have no right to renewal of the C.U.P. or D.P.R. Any application for a new C.U.P. and D.P.R. must be filed at least sixty days prior to the expiration of these approvals.

If the Planning Commission does not extend the C.U.P. and D.P.R., the C.U.P. and D.P.R. shall expire and all rights possessed under the Permits shall be terminated. Provided,

however, if the Applicant files an application for an extension, any existing C.U.P. and D.P.R. shall be extended until the City takes final action on the application.

Any application for an extension of this C.U.P. and D.P.R. 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.

2. The Applicant shall not instruct nor 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.

3. This resolution, and all covenants and conditions contained herein, shall run with the land and shall remain in full force for the duration of the life of the Project. The Applicant shall have this resolution recorded by the Los Angeles County Recorder in a form satisfactory to the City Attorney, and the Applicant shall provide the City with all fees necessary to record the document with the County Recorder.

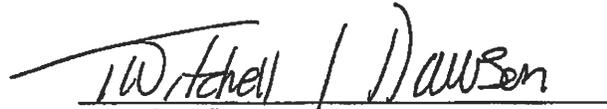
4. Within three working days after approval of this resolution, the applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.

Section 6. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in Resolution No. 99-R-10211, and all provisions of the Beverly Hills Municipal Code.

Section 7. If this Resolution is invalidated for any reason, all provisions of Resolution No. 99-R-10211, as originally approved, shall remain in full force and effect.

Section 8. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this Resolution, and shall cause this Resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 8-23-00



Mitchell J. Dawson
Chairman of the Planning
Commission for the City of
Beverly Hills

Attest:



Secretary

Approved as to form:



Amy Greyson
Assistant City Attorney

Approved as to content:



Ruth Nadel
Director of Planning &
Community Development

RESOLUTION NO. 1191

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RENEWING A DEVELOPMENT PLAN REVIEW PERMIT FOR OPEN AIR DINING AND A CONDITIONAL USE PERMIT TO ALLOW A HOTEL DINING FACILITY (L'ERMITAGE HOTEL) AT 9291 BURTON WAY TO CONTINUE TO BE OPEN TO THE PUBLIC

THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS:

Section 1. On August 3, 1999 the City Council approved Resolution No. 99-R-10211 issuing a development plan review permit ("D.P.R.") for open air dining and granting a conditional use permit ("C.U.P.") to Raffles L'Ermitage Beverly Hills Hotel (hereafter the "Applicant") to allow a hotel dining facility to be open to the public, at 9291 Burton Way for L'Ermitage Hotel (the "Project"). The City Council's decision was subject to 19 conditions to minimize impacts of the Project on neighboring residential properties. Subsequently, on July 13, 2000 the Planning Commission renewed the D.P.R. and the C.U.P., subject to 4 conditions.

Section 2. Condition No. 1 of Planning Commission Resolution No. 1138 states that the C.U.P. and D.P.R. shall expire one year after the date of adoption of Resolution No.

1138, unless the C.U.P. and D.P.R. are renewed. The expiration date of these approvals is August 3, 2001. Allan Cooper, of the law firm of Ervin, Cohen and Jessup, on behalf of the Applicant, timely submitted an application to renew these approvals on June 1, 2001.

Section 3. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the Project or to the environment that would cause the Project to significantly impact the environment. The continued operation of the project will not have a significant impact on the environment. Accordingly, the Planning Commission finds that the original negative declaration previously adopted by the Planning Commission and the mitigation measures imposed therein continue to represent the independent judgment of the City, and the Planning Commission further finds that there is no substantial evidence that the renewal of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 4. On July 25, 2001, the Planning Commission held a duly noticed public hearing to consider the application for renewal. Evidence, both written and oral, was presented at said hearing.

Section 5. Based upon the foregoing, the Planning Commission hereby finds that as conditioned under Planning Commission Resolution No. 1138 and City Council Resolution No. 99-R-10211 (the "Resolutions"), the operation of the restaurant and outdoor dining has not had an adverse impact on the surrounding neighborhood, there have been no violations of the conditions of the D.P.R. or the C.U.P., and there have been no violations of the Beverly Hills Municipal Code. The Planning Commission further finds that it can continue to make each of the findings contained in the Resolutions in an affirmative manner, and hereby readopts those findings and renews the C.U.P. and D.P.R. for an additional one year period, subject to all conditions set forth in the Resolutions, except as modified below:

1. Condition No. 1 of Resolution No. 1138 is hereby deleted.

2. 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.

Section 6. Except as specifically modified by this Resolution, the Project shall comply with each condition set forth in the Resolutions, and all provisions of the Beverly Hills Municipal Code.

Section 7. If this Resolution is invalidated for any reason, all provisions of the Resolutions, as originally approved, shall remain in full force and effect.

Section 8. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 8-22-01

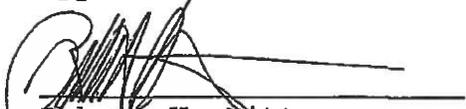


Stephen P. Webb
Chairman of the
Planning Commission of the
City of Beverly Hills,
California

ATTEST:


Secretary

Approved as to form:


Robert H. Pittman
Assistant City Attorney

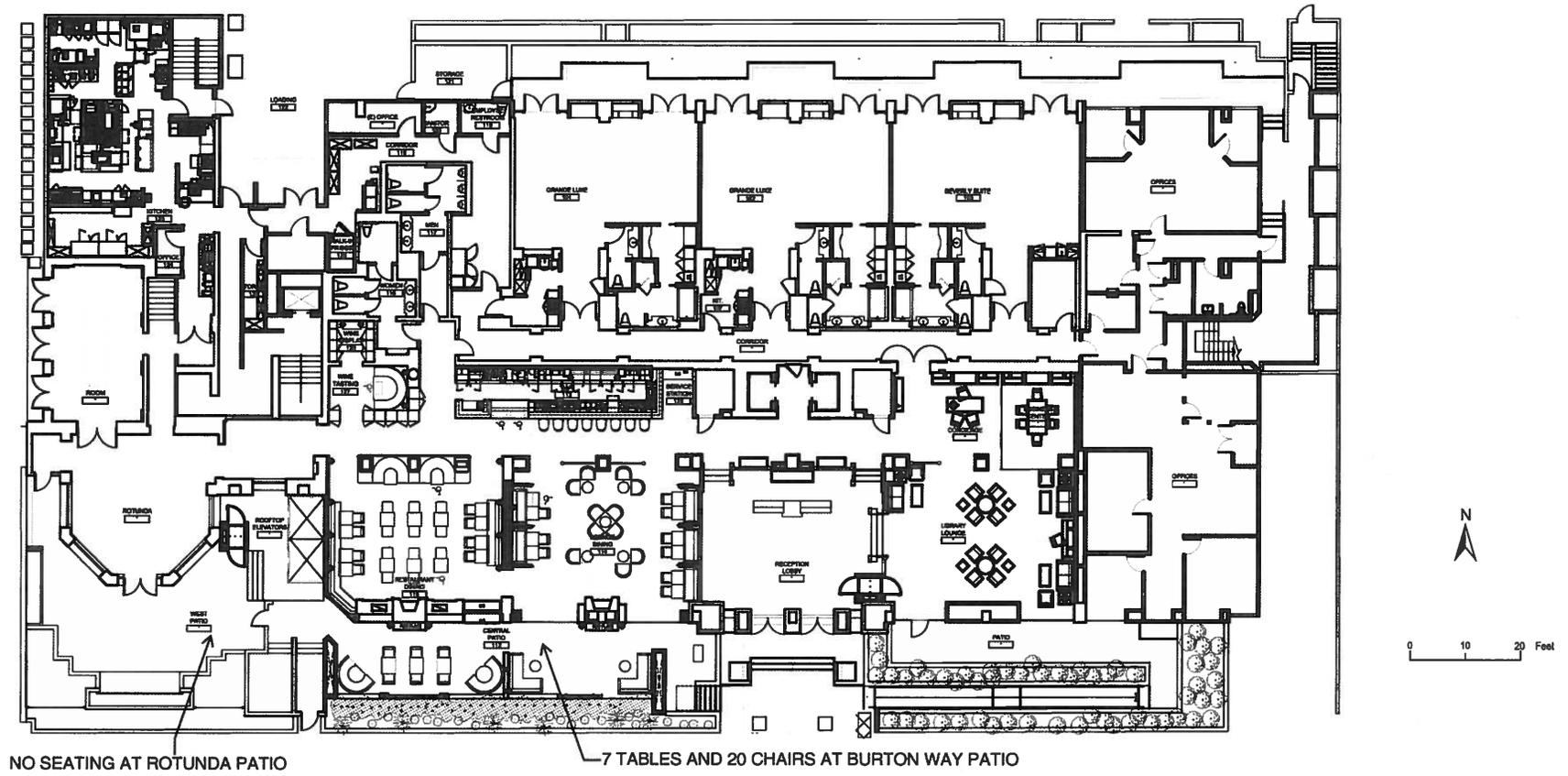
Approved as to content:


Ruth Nadel
Director of Planning &
Community Development

8/6/01



Attachment H
Architectural Plans



Proposed Ground-Floor Hotel
Restaurant Seating Plan

Figure 9b
City of Beverly Hills