

CITY OF LOS ANGELES
CALIFORNIA

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CLAUDIA M. DUNN
Chief, Council and Public Services Division

When making inquiries
relative to this matter
refer to File No.

05-2841

CD 5

Los Angeles County Assessor
500 W. Temple Street, Room 225
Kenneth Hahn Hall of Administration
Los Angeles, CA 90012

July 5, 2006

Office of the Mayor
Planning Department
Attn: Mark Lopez (w/ copy of ord.)
cc: Director of Planning
cc: Office of Zoning Administration
cc: Geographic Information Section
Attn: Fae Tsukamoto
Bureau of Street Lighting,
"B" Permit Section
See attachment for additional notification

Councilmember Weiss
Bureau of Engineering,
Land Development Group
Department of Transportation,
Traffic/Planning Sections
Department of Building and Safety
c/o Zoning Coordinator
cc: Residential Inspection Unit
Fire Department

RE: ZONE CHANGE, HEIGHT DISTRICT CHANGE AND APPEALS ON VESTING TENTATIVE TRACT MAP (VTT 61125), CONDITIONAL USES, ZONING ADMINISTRATOR'S ADJUSTMENT AND DETERMINATION, MND NO. ENV-2004-5580-MND AND SITE PLAN REVIEW FOR PROPERTY AT 100 NORTH LA CIENEGA BOULEVARD (PROJECT ALSO KNOWN AS "BEVERLY CONNECTION")

At the meeting of the Council held June 20, 2006, the following action was taken:

Attached report adopted.....	X
Findings adopted.....	X
Mitigated Negative Declaration adopted.....	X
Ordinance adopted.....	X
Ordinance number.....	177661
Date posted.....	7-3-06
Effective date.....	8-12-06
Mayor approved.....	6-30-06

City Clerk
jr



CF 05-2841
CPC 2005-0532
VTT 61125

Dr. Laura Lake
1557 Westwood Blvd., #235
Los Angeles, CA 90024

Harald Hahn
479 S. Sherbourne Dr.
Los Angeles, CA 90048

Jeff Jacobberger
740 N. La Jolla Ave.
Los Angeles, CA 90046

Diana Plotkin
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Irwin Jules Siegel
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Los Angeles, CA 90067

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Los Angeles, CA 90048

Craig Lawson
Craig Lawson & Co., LLC
8758 Venice Blvd., #200
Los Angeles, CA 90034

Your **PLANNING AND LAND USE MANAGEMENT** Committee

reports as follows:

	<u>Yes</u>	<u>No</u>
Public Comments	<u>XX</u>	<u>—</u>

MITIGATED NEGATIVE DECLARATION (MND), PLANNING AND LAND USE MANAGEMENT COMMITTEE REPORT and ORDINANCE FIRST CONSIDERATION relative to Zone Change and Height District Change, and appeals on Vesting Tentative Tract Map appeal (VTT 61125), Conditional Uses, Zoning Administrator's Adjustment and Determination, MND No. ENV-2004-5580-MND and Site Plan Review for property at 100 North La Cienega Boulevard (project also known as "Beverly Connection").

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. FIND that this project will not have a significant effect on the environment, pursuant to the City's Environmental Guidelines and is in compliance with the California Environmental Quality Act; that the Mitigated Negative Declaration reflects the independent judgment of the lead agency City of Los Angeles; that the documents constituting the record of proceedings in this matter are located in Council file No. 05-2841 in the custody of the City Clerk and in the files of the Department of City Planning in the custody of the Environmental Review Section; and ADOPT the Mitigated Negative Declaration [ENV 2004-5580 MND].
2. ADOPT the FINDINGS of the City Planning Commission as modified by the Committee, as the FINDINGS of the City Council.
3. RESOLVE TO GRANT IN PART, DENY IN PART APPEALS filed by Beverly Wilshire Homes (BWH) Association, Diana Plotkin (President BWH Association and Representative), and Harald R. Hahn, President, Burton Way Homeowners Association, Inc., Dr. Laura Lake, Representative, from the entire decision of the City Planning Commission, THEREBY APPROVE: (1) Vesting Tentative Tract Map No. 61125 to permit a maximum of 52 residential condominium units (formerly proposed for 62 units), and 355,256 square feet of commercial space, subject to modified conditions of approval and modified findings, for property at 100 North La Cienega Boulevard (project also known as "Beverly Connection").

VTT 61125-1A

4. RESOLVE TO GRANT IN PART, DENY IN PART APPEALS filed by Beverly Wilshire Homes (Irwin Jules Siegel, Representative), Harald R. Hahn, President, Burton Way Homeowners Association (Dr. Laura Lake, Representative), and Jeffrey M. Jacobberger on behalf of United Neighbors for Responsible Development, from the decision of the City Planning Commission (CPC) Determination (dated December 22, 2005, and Corrected CPC Determination dated March 1, 2006), THEREBY APPROVING the following: (1) Conditional Use Permits; (2) a Zoning Administrator's Adjustment and Determination; (3) the Adopted Mitigated Negative Declaration No. ENV-2004-5580-MND, as noted in Recommendation No. 1 of this Committee report; (4) a Site Plan Review for the proposed Development of a mixed use project involving the renovation of an existing two-story, 358,117 square foot retail center and the addition of two residential components, to consist of 150-unit, four-story senior assisted living facility (formerly proposed for 177-units), resulting in an overall height of 80-feet and elevator shaft up to 95-feet and a 52-unit (formerly 62-unit), 6-story residential condominium building resulting in an overall height of 111 feet with a rooftop activity room up to 119 feet, six inches and an elevator shaft up to 127 feet, six (6) inches. The project includes the reconfiguration of the existing retail space and parking garage, the demolition of the 1,875 seat multiplex

movie theatres, the addition of two new retail pads and construction of an on-site pedestrian walkway to provide internal circulation and access to the site from 3rd Street. Within the redeveloped and new retail space (355,256 square feet of commercial space), the project will include a change of use from office to retail uses and the continued sale of alcoholic beverages at seven (7) establishments, and one additional restaurant to serve a full line of alcoholic beverages on-site, for a maximum of eight (8) establishments. Parking will be provided within a new subterranean level, on two surface parking lots, and within an existing five level parking structure including: 1,332 spaces to be shared between existing and proposed retail uses and the capacity to provide parking for 100 additional vehicles on-site by means of a valet parking system; Los Angeles Municipal Code (LAMC) required parking for the senior assisted living units; and LAMC Code required parking for the residential condominiums, plus one-half (½) guest parking space per dwelling unit, on a 423,206 square foot lot located at 100 North La Cienega Boulevard (project also known as "Beverly Connection").

5. PRESENT and ADOPT the accompanying NEW ORDINANCE, approved by the Director of Planning, effecting the Zone Change from [Q]C2-1VL and [Q]C1.5-1VL to (T)(Q)C2-1, for the proposed development of a mixed use project involving the renovation of an existing, two-story 358,117 square foot retail center and addition of two residential components to be constructed over the existing building, subject to modified Conditions of Approval.

Applicant: BEVCON I, LLC

CPC 2005-0532 ZC HD CU CUB ZV ZAA ZAD SPR

Said rezoning shall be subject to the "Q" Qualified classification zone limitations substantially as shown on the sheet(s) attached to the Committee report.

6. REMOVE the (T) Tentative classification as described in detail on the sheet(s) attached to the Committee report.
7. ADVISE the applicant of "Q" Qualified classification time limit as described in the Committee report.
8. NOT PRESENT and ORDER FILED the ordinance approved by City Planning Commission on October 20, 2005.

Fiscal Impact Statement: The Planning Department reports that there is no General Fund impact, as administrative costs are recovered through fees.

TIME LIMIT FILE - JULY 31, 2006

(LAST DAY FOR COUNCIL ACTION - JULY 28, 2006)

Summary:

On June 6, 2006, the Planning and Land Use Management (PLUM) Committee conducted a public hearing regarding appeals filed by Beverly Wilshire Homes (BWH) Association (Diana Plotkin, President BWH and Representative), and Harald R. Hahn, President, Burton Way Homeowners Association, Inc., Dr. Laura Lake, Representative, from the entire decision of the City Planning Commission (CPC): (1) in approving Vesting Tentative Tract Map No. 61125 to permit a maximum of 62 residential condominium units and 355,256 square feet of commercial space, subject to modified Conditions of Approval; (2) in adopting Findings, as amended; and (3) in adopting MND No. ENV-2004-5580-MND, for property at 100 North La Cienega Boulevard (project also known as "Beverly Connection").

In addition, a draft Ordinance effecting a Zone Change and Height District Change from [Q]C2-1 and [Q]C1.5VL to (T)(Q)C2-1, subject to Conditions of Approval, and approved by the CPC, was considered by the Committee.

The PLUM Committee also held a public hearing on appeals filed by Beverly Wilshire Homes (BWH) Association (Irwin Jules Siegel, Representative), Harald R. Hahn, President, Burton Way Homeowners Association (Dr. Laura Lake, Representative), and Jeffrey M. Jacobberger on behalf of United Neighbors for Responsible Development, from the decision of the CPC Determination (dated December 22, 2005, and Corrected CPC Determination dated March 1, 2006), in approving the following: (1) Conditional Use Permits; (2) a Zoning Administrator's Adjustment and Determination; (3) Adopted MND No. ENV-2004-5580-MND; and (4) a Site Plan Review for the proposed Development of a mixed use project involving the renovation of an existing two-story, 358,117 square foot retail center and the addition of two residential components. The proposed residential portions include the addition of a 177-unit, four-story senior assisted living facility, resulting in an overall height of 80-feet and elevator shaft up to 95-feet and a 62-unit, (6-story residential condominium building resulting in an overall height of 111 feet with a rooftop activity room up to 119 feet, six inches and an elevator shaft up to 127 feet, 6 inches. The project includes the reconfiguration of the existing retail space and parking garage, the demolition of the 1,875 seat multiplex movie theatres, the addition of two new retail pads and construction of an on-site pedestrian walkway to provide internal circulation and access to the site from 3rd Street. Within the redeveloped and new retail space (355,256 square feet of commercial space), the project will include a change of use from office to retail uses and the continued sale of alcoholic beverages at seven (7) establishments, and one additional restaurant to serve a full line of alcoholic beverages on-site, for a maximum of eight (8) establishments. Parking will consist of 1,576 parking spaces within two new subterranean levels, two existing surface parking lots, and an existing five level parking structure, including 1,332 spaces to be shared between existing and proposed retail uses, 89 parking spaces for the assisted living units, and 155 parking spaces for the residential condominiums, on a 423,206 square foot lot located at 100 North La Cienega Boulevard (project also known as "Beverly Connection").

The hearing lasted a little over two hours, and included testimony from the appellants and representatives, applicants and representatives, members of the public and other community organizations, and a number of staff from the Planning Department, the Department of Transportation, the City Attorney's Office.

Staff from the Planning Department described the project, the requested entitlements and deviations, and appeals.

The appellants and several speakers provided testimony in opposition to the project as proposed. It was contended that: (1) the traffic findings and level of service requirements do not conform to the Wilshire Community Plan; (2) that substantial evidence indicates that the project will have a significant impact on the environment; and (3) that an Environmental Impact Report (EIR) instead of the MND, should be completed for the project. A summary of the concerns expressed are itemized in letters a. through j. as shown below. In addition, some items are explained in detail in a letter dated June 2, 2006, (attached to Council file No. 05-2841), submitted by Strumwass & Woocher, LLP on behalf of one of the appellants "Burton Way Homeowners Association." The following concerns were expressed by the appellants and representatives:

- a. the project does not comply with the Wilshire Community Plan and the General Plan;
- b. the 62 residential condominium units and 177 senior assisted living units, and mixed-use project is too massive in height and footprint and is inconsistent with the Wilshire Community Plan. The height is also in violation of the Los Angeles Municipal Code which limits Corner Commercial Development to a height of 45 feet. A request was made by a representative of the appellants to deny the zone and height district changes;
- c. the MND completed for the project is inadequate and does not properly analyze the environmental or cumulative impacts, haul route, traffic and parking and shadow impacts; and therefore, it was contended that the MND prepared for the project is insufficient, and is in violation of the California

Environmental Act. It was contended that MND relied on an incorrect baseline to conclude that traffic will improve after expansion of the site;

- d. in the applicant's traffic study there is a significant underestimation of the afternoon peak-hour trips. In addition, there are conflicting findings and results between the applicants traffic study conducted by Crain and Associates (Crain study) and the separate traffic study submitted by the appellants (conducted by Kaku Associates for the Maimonedes Academy). It was concluded, by one of the representatives of the appellants, that there is an approximate 70 percent increase in trips that may be generated by the project using the appellants traffic study. It was further reported that the applicant used baseline for credits for a closed movie theater, closed several months before the environmental review;
- e. use of the fire lane by trucks;
- f. appellants study results show a shortfall of 169 parking spaces for this project. (Other analysis are provided in a report provided by the appellants dated June 2, 2006, and attached to Council file No. 05-2841);
- g. the MND did not take into account the impact on environment of the haul route proposed to remove 65,000 cubic yards of earth (soil) from the site which is adjacent to residential properties;
- h. the proposed height of the residential condominium building and senior assisted living building will increase shade and shadow impacts, blocking light, and decreasing privacy for adjacent residents who complained about the project's approximate 20 foot setback from their residences on Croft Avenue. It was reported that the shade and shadow study indicated that there would be a significant impact of shade and shadow cast onto residences between the hours of 9 a.m. and 3 p.m. on December 21;
- i. Measures taken to mitigate impacts are insufficient, and the public did not have an opportunity to review the proposed mitigation.
- j. housing provided will not be affordable housing

Several speakers also provided testimony in support of the project. The representative for the applicant submitted two booklets, one as a briefing and one proposed to contain support cards and letters from the community. The representative for the applicant clarified for the record that the correct no. for the MND is ENV 2004-5580-MND. He reported that the proposed Beverly Connection site is surrounded by major streets, Beverly Boulevard, Third Street, La Cienega, also near some major structures and tall buildings, i.e. Beverly Center. The representative reported that the project is good example of a new retail and mixed-use project in a major urban center. A summary of responses by the representatives for the applicant and others are outlined in letters a. through j, as shown below. In addition, some of the items are explained in detail in letters dated May 16, 2006 and May 31, 2006 (attached to Council File No. 05-2841), submitted by Brown, Winfield & Canzoneri, the law firm representing the applicant. The representatives for the applicant responded to the appellants testimony, as follows:

- a. the project is in compliance with the Wilshire Community Plan and the General Plan;
- b. tremendous and extensive community outreach has been conducted for this project over the past two years. It was further reported that some of the outreach included ten meetings with the Mid City West Community Council (official Neighborhood Council), twelve mailings to neighbors, numerous meetings with impacted residents and appellants on this project, and open houses. The representative reported that the project is a good project, with a lot of community support;
- c. A website and hotline was provided for the facilitation of information regarding the project. In

addition, the project has been the subject of three lengthy hearings: one with the Planning Hearing Officer and with the old and new City Planning Commission. The representative reported that the actions before the Committee on this matter were approved unanimously by both Commissions;

- d. the major challenge to the MND is the traffic impact study and the sufficiency of that study. If an EIR had been prepared, the same study would have been included for the EIR. The attorney contended that the appellant's challenge is not as to whether there should be a MND or EIR, but if the traffic study should be trusted. He contended that the traffic study completed for the project was proper, adequate and legal under the environmental laws. It was further reported by the representing attorney, that a significant traffic impact was not determined for this project, so there was no nexus to do any traffic improvements;
- e. dedications and improvements were volunteered by the applicant (in response to an issue of concern in the community), to provide a westbound right-turn only lane from Third Street to La Cienega Boulevard. A representing attorney for the applicant/project reported that a letter submitted for the record dated May 16, 2006, addresses some of the concerns of appellants relative to the projects compliance with the MND, and alleged impacts;
- f. the Crain traffic study and City analysis (City Department of Transportation [DOT] analysis), was based on a correct baseline. There was not an underestimation of anticipated traffic trips for the project. The representing attorney reported that traffic generation studies are not based on the current status of a business (opened or closed, popular or unpopular), but rather they are based upon standards used throughout the country;
- g. the Crain traffic study concluded that the new residential projects would create less cumulative impacts and traffic impacts. Parking will be provided in accordance with the Code, and shade and shadow studies were performed which indicated in the worse case there would be no more than two (2) hours of shade which is determined as less than significant;
- h. the appellants' statement that 65,000 cubic yards of dirt is to be hauled, is incorrect. The correct number of cubic yards as shown in the hauling application is 16,500 cubic yards of dirt. The attorney further reported that the construction impacts were addressed in the mitigating measures. The exact haul route is not addressed;
- i. T condition No. 7 and Q condition No. 8 require that the fire lane be closed for all vehicles except emergency vehicles; and
- j. regarding affordability, the center will not be ultra luxury housing, but is geared toward work force housing. It's estimated to become moderate housing as compared to other projects in the market place.

Others testified on the benefits of the housing and senior assisted living. The Miracle Mile Chamber of Commerce also spoke in support of the senior assisted housing and project and report that the developer has compromised and has been responsive to the community.

In response to PLUM Committee queries, the following was reported by City staff:

City Planning Department staff reported that an EIR would not change any of the conditions required of the applicant. Conditions are required of the project including a condition for a covenant.

Staff from the DOT reported that in the Department's analysis of the traffic trips in the surrounding area, including the intersections immediately adjacent to the site: four (4) intersections are estimated to become slightly worse, two (2) are estimated to become slightly better; and two (2) are estimated to remain the same, as a result of the

project. DOT staff reported, that the Department has very specific threshold guidelines which have indicated that at the end of the day (after all factors have been considered), it calculated four (4) additional trips in the morning and 65 additional p.m. peak hour trips. DOT staff reported that it has been determined that the increase in number of trips attributed to the project are not of the magnitude to cause a significant impact, or require an EIR. At the worst intersection (where the project is adding the additional trips), the traffic count is found to be a difference of .7 tenths of one percent. One percent is needed to cause an impact. DOT also reported that the traffic study used for the MND would be the same for an EIR. DOT staff further reported that the driveway access for the project at La Cienega Boulevard is estimated to improve due to on site storage. DOT staff explained that the project is replacing an 1,875 seat multiplex movie theater and office uses. The net effect is no significant traffic impact from the project.

The City Attorney advised the decision as to whether an MND or EIR is appropriate, under the standards of review of the California Environmental Quality Act (CEQA), is whether there is substantial evidence in support of a fair argument that there may be a significant effect to the environment. If there is such a determination, then an EIR is required. The City Attorney further reported that some of the arguments in the document submitted by the representative of the appellants appear to be primarily unsupported factual arguments. However, with respect to the traffic arguments, what is being measured is the change in traffic between existing uses in the area, and the estimated change which will result from the proposed project, and if the change may be significant. DOT has indicated some intersections are estimated to become worse, some better. DOT further indicated that specific numeric thresholds are used to determine significance for different types of intersections and uses. The City Attorney advised that it is only if those thresholds of significance are exceeded, that you have a significant impact. The City Attorney further advised that it is not a requirement to find "no impact," to do a negative declaration, but rather the absence of significant impacts. The City Attorney also advised that CEQA encourages the use of thresholds and leaves it up to the lead agency to decide at what level a consideration is significant, and to maintain supporting documentation. If the Committee determines that supporting documents are provided and that there is no significant impact, then the EIR is not required. Regarding the issues of cumulative impacts, the City Attorney advised, it may be that the proposed project is in an area already impacted by traffic, but what is measured is the level of change in traffic and its level of significance.

After careful consideration of the documents on file, and at the conclusion of the public hearing, Councilmember Jack Weiss who represents the Council District of the proposed project (and a member of the PLUM Committee), recommended and was second by the Chair of the Committee that Council: (1) approve the Zone Change and Height District Change; and (2) grant in part and deny in part the appeals filed, and that conditions be added and/or modified for the project, with a request that the Planning Department and the City Attorney's Office assist in refining the language so that the appropriate written documents may be completed and submitted, prior to the matter being scheduled for Council:

1. that the number of residential condominium units proposed under Vesting Tentative Tract Map No. 61125 be reduced from 62 to 52 units;
2. that the number of senior assisted living facility units be reduced from 177 to 150 units;
3. that the Fire Lane closure (off Beverly Boulevard) be made permanent, and be reflected in the conditions (if not already a condition);
4. require that the applicant dedicate the north side of Third Street by 5 feet and widen the roadway by 7 feet to provide a westbound right turn lane at La Cienega Boulevard;
5. waive the Bureau of Engineering recommendation of widening both La Cienega Boulevard and Beverly Boulevard along the project frontage. (It was noted by a representative for the project that the applicant

is not seeking a waiver to the dedication along these two streets, but will file a "revocable encroachment permit" with the Bureau of Engineering in order to temporarily occupy the dedicated land to maintain existing surface parking provisions until future tenant improvements or expiration of leases occur);

- 6. that the shared parking plan (for the retail/commercial uses) be modified to require 1,332 shared parking spaces and capacity for an additional 100 vehicles on-site; and modify the Parking Monitoring Program "Q" Conditions, so that parking study will also analyze the availability of the project site to provide for off-site parking to alleviate some of the parking pressure in the neighborhood;
- 7. that ten (10) percent of the living units in the senior assisted living facility be designated for low income persons, and ten (10) percent of the living units in the same facility be designated for moderate income persons, consistent with eligibility standards established under federal and/or state regulations;
- 8. that construction Monday through Friday be restricted to the hours between 7:30 a.m. to 6 p.m., and on Saturday from 8:30 a.m. to 6 p.m.;
- 9. that the developer fund \$250,000 (as a special fund), for traffic, parking and related beautification efforts in the neighborhood. The fund will be overseen by the relevant City Departments of Planning, Transportation and the Board of Public Works with consultation of Council District Five who will actively seek the input of the Neighborhood Council to make sure that the funds are apportioned appropriately;
- 10. that there be a covenant set in place which will ensure that the senior assisted facility will be used in perpetuity as a senior assisted facility; and
- 11. that, if in the future there are any settlements entered into, related to any private actions on this project, that this information be placed on the public record in front of the PLUM Committee.

The matter is hereby transmitted to the Council for consideration.

Respectfully submitted,

PLANNING AND LAND USE MANAGEMENT COMMITTEE

Carl P. Reyes
Ann Ullrich

<u>MEMBER</u>	<u>VOTE</u>
REYES:	YES
HUIZAR:	ABSENT
WEISS:	YES

BG:ys
 6-7-06
 Enc: CPC 2005-0532 ZC HD CU CUB ZV ZAA ZAD SPR
 VTT 61125-1A
 Ordinances
 Findings and Conditions of Approval as modified
 (attached to the CF 05-2841)

CD 5

#052841

Rept, ORD & Findings

ADOPTED

JUN 20 2006

LOS ANGELES CITY COUNCIL

mit Neg Dec ADOPTED