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CITY CLERK  
CITY OF PASADENA

## MEMORANDUM

**TO:** Mark Jomsky, City Clerk

**FROM:** Chris Holden, Councilmember District 3

**DATE:** June 1, 2009

**SUBJECT:** CONSIDERATION OF A CALL FOR REVIEW

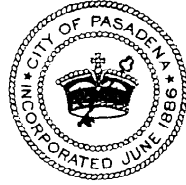
Per our phone conversation, this is to request for City Council consideration a call for review of a Hearing Officer decision to the Board of Zoning Appeals regarding Conditional Use Permit No. 5257 for the property located at 877 North Orange Grove Boulevard.

Please agendaize this request for City Council consideration for the June 8, 2009 meeting.

Chris Holden  
Councilmember, District 3

6/8/2009

7.B.(7)



PLANNING & DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

May 22, 2009

Michelle Espinoza Coulter  
Nehemiah Court, LLC  
3345 Wilshire Blvd., Ste. 1000  
Los Angeles CA 90010

**Subject: Conditional Use Permit #5257  
877 N. Orange Grove Blvd.  
Council District #3**

**PLN#2009-00013**

Dear Ms: Coulter:

Your application for a **Conditional Use Permit** at **877 N. Orange Grove Blvd.** was considered by the **Hearing Officer** on **May 20, 2009**.

**CONDITIONAL USE PERMIT: 1) Minor Conditional Use Permit: To allow shared parking for a new, three-story, mixed-use project. The ground floor will consist of a 1,380 square foot office space. Seven dwelling units will be located on the second and third floors. The project proposes to share the four required office parking spaces with the neighboring Nehemiah Church. The residential and ADA parking will be provided on-site. No trees are proposed for removal;**

**2) Affordable Housing Concession Permit: To deviate from the commercial depth requirement for a mixed use project. The Zoning Code requires a minimum commercial depth of 50' 0" and the project proposes a depth of 30' 2";**

**3) Affordable Housing Concession Permit: To deviate from the 50' 0" corner rounding requirement for a mixed-use project. The project proposes a corner rounding of 30' 2";**

**4) Affordable Housing Concession Permit: To provide less than the required parking for the residential component of the project. The project requests a reduction in the required residential parking from 14 spaces to seven spaces.**

After careful consideration of this application, and with full knowledge of the property and vicinity, the Hearing Officer made the findings as shown on Attachment A to this letter.

Based upon these findings, it was decided by the Hearing Officer that the Conditional Use Permit and Affordable Housing Concession Permits be **approved** with the conditions listed in Attachments B, C and D and in accordance with the submitted plans stamped **May 20, 2009**.

In accordance with Section 17.64.040 of the Pasadena Municipal Code, the exercise of the right granted under this application must be commenced within two years of the effective date of the approval, unless otherwise specified in the conditions of approval. The Zoning Administrator can grant a one-year extension of your approval. Such a request and the appropriate fee must be received before the expiration date. The right granted by this approval may be revoked if the entitlement is exercised contrary to the conditions of approval or if it is exercised in violation of the Zoning Code.

You are advised that an application for a building permit is not sufficient to vest the rights granted by this approval. The building permit must be issued and construction diligently pursued prior to the expiration of this approval. It should be noted that the time frame within which judicial review of the decision must be sought is governed by California Code of Civil Procedures, Section 1094.6.

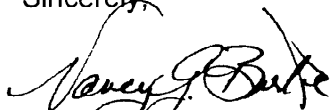
You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Hearing Officer has the right to appeal this decision within **ten days (June 1, 2009)**. The effective date of this case will be **June 2, 2009**. Prior to such effective date, a member of the City Council or Planning Commission may stay the decision and request that it be called for review to the Board of Zoning Appeals. However, if the tenth day falls on a day when City offices are closed, the appeal deadline shall be extended through the next day when offices are open. The decision becomes effective on the eleventh day from the date of the decision. The regular Appeal fee is \$2,431.48. The Appeal fee for Non-profit Community-based Organizations pre-registered with Neighborhood Connections is \$1,215.74.

Any permits necessary may be issued to you by the Building Division on or after the effective date stated above. A building permit application may be submitted before the appeal deadline has expired with the understanding that should an appeal be filed, your application may, at your expense, be required to be revised to comply with the decision on the appeal. **You should call the Current Planning office at 626-744-6777 to find out if any appeal or call for review has been filed before you submit your building permit application.** A copy of this decision letter (including conditions of approval and any mitigation monitoring program) shall be incorporated into the plans submitted for building permits.

The Hearing Officer adopted the environmental determination that the project exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15332, Class 32, In-Fill Development).

For further information regarding this case please contact **Jose Jimenez** at **(626) 744-7137**.

Sincerely,



Nancy Burke  
Hearing Officer

Enclosures: Attachment A, Attachment B, Attachment C, Attachment D

xc: City Clerk, City Council, Building Division, Public Works, Power Division, Water Division, Design and Historic Preservation, Hearing Officer, Code Enforcement-Ellen Clark, Case File, Decision Letter File, Planning Commission (9)

**ATTACHMENT A**  
**SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #5257**

1) Minor Conditional Use Permit: To Allow Shared Parking

1. *The proposed use is allowed with a Minor Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of the zoning district. The project involves the use of shared parking to share four parking spaces at an abutting church for the commercial component of the new mixed use building. In this case, the hours of operation are such that the peak demand for parking for both sites will not conflict with each other. All ADA required parking will be provided on the site of the new mixed use building. The office will provide support services for the residents of the project which further limits parking demand.*
2. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district in that the project is a mixed use building with an office space that will not adversely impact the surrounding area. The office space will provide support services for the residents which limits the parking demand. As proposed, the MCUP will ensure that demand for office parking will be met and there will be no impacts to church use of the parking or the surrounding area.*
3. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan. The project will encourage the retention of and creation of affordable housing per policy 10.1 of the General Plan.*
4. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use. The granting of the proposed MCUP will allow the applicant to share four parking spaces to meet the minimum off-street parking requirements for the proposed office component of the mixed use building. The majority of the occupants of the office will reside within the proposed building, and the office will provide necessary support services. The shared parking will not impact the health and safety of those whose reside in the general vicinity.*
5. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. The granting of the proposed MCUP will allow the applicant to meet the minimum off-street parking requirements for the office use. All parking will occur within the prescribed distance as set fourth in the Zoning Code. In addition, the applicant intends to provide one ADA parking space on-site.*
6. *The design location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection. The proposed shared parking agreement will occur without conflict between the new mixed use building and the existing church. As noted, most occupants of the building will utilize the office space, thus limiting the need for additional parking.*

7. *The spaces to be provided would be available as long as the uses requiring the spaces lawfully exist in that a condition assuring the parking spaces will be available for use at all times has been added to the entitlement.*
8. *The quality and efficiency of the parking or loading utilization would equal or exceed the level that is otherwise required in that the proposal is to share four parking spaces to satisfy the parking demand of the commercial component of the new mixed use building. Although the Code requires four spaces the true parking demand is lessened due to fact that users of the office space will reside at the subject site.*

2) Affordable Housing Concession Permit: To Provide a Ground-Floor Non-Residential Use With an Interior Depth of 30'2", Where Code Requires 50'0".

9. *The concession or incentive is required in order for the designated units to be affordable in that the applicant has demonstrated to staff that the proposed project will dedicate six of the seven units to very low income households. The requirement for commercial depth would impact the project resulting in the loss of affordable housing units and the feasibility of the project. The applicant has been working with the Housing Department which is in support of the proposal. Approval of the deviation will allow the applicant to provide an office space intended to provide support services to the tenants of the site.*
10. *The concession or incentive would not have a specific adverse impact on public health, public safety, or the physical environment, and would not have an adverse impact on a property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, without rendering the development unaffordable to low- and moderate-income households. A specific adverse impact is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Staff did not find any impacts that could potentially impact public health, safety, the physical environment, or historic resources. The high quality of construction and finish materials will ensure that the project is safe for the project's residents and tenants, as well as the surrounding commercial and residential uses. Additionally, the site is not located within any National Register of Historic Places, or any landmark districts. The project must meet all building code requirements and the conditions requested by all other City Departments.*

3) Affordable Housing Concession Permit: To Allow a Ground Floor Commercial Use To Wrap Around a Corner With Less Than the Required 50'0" Depth.

11. *The concession or incentive is required in order for the designated units to be affordable in that the applicant has demonstrated to staff that the proposed project will dedicate six of the seven units to very low income. The requirement to require a commercial use to wrap around a corner lot would impact the project resulting in the loss of affordable housing units. The applicant has been working with the Housing Department which is in support of the proposal. Approval of the deviation will allow the applicant to provide an office space intended to provide support services to the tenants of the site.*
12. *The concession or incentive would not have a specific adverse impact on public health, public safety, or the physical environment, and would not have an adverse impact on a property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigated or avoid the specific adverse*

*impact, without rendering the development unaffordable to low- and moderate-income households. A specific adverse impact is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Staff did not find any impacts that could potentially impact public health, safety, the physical environment, or historic resources. The high quality of construction and finish materials that will be used will ensure that the project is safe for the project's residents and tenants, as well as the surrounding commercial and residential uses. Additionally, the site is not located within any National Register of Historic Places, or any landmark districts. The project must meet all building code requirements and the conditions requested by all other City Departments.*

4) Affordable Housing Concession Permit: To Provide Less Than the Required Parking Spaces For the Residential Component of the Project.

13. *The concession or incentive is required in order for the designated units to be affordable. In order to provide the necessary number of parking spaces, a subterranean parking garage would be required. Incorporation of a subterranean garage will raise the cost of construction, resulting in a budget gap, which would require the elimination of three of the seven proposed units. The project would not be feasible with four units and could not provide housing for very low income households. As such, staff is in support of the requested deviation because quality, affordable housing will result from this application.*

14. *The concession or incentive would not have a specific adverse impact on public health, public safety, or the physical environment, and would not have an adverse impact on a property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, without rendering the development unaffordable to low- and moderate-income households. A specific adverse impact is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Staff did not find any impacts that could potentially impact public health, safety, the physical environment, or historic resources. The high quality of construction and finish materials will ensure that the project is safe for the project's residents and tenants, as well as the surrounding commercial and residential uses. Additionally, the site is not located within any National Register of Historic Places, or any landmark districts. The project must meet all building code requirements and the conditions requested by all other City Departments.*

**ATTACHMENT B**  
**CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #5257**

The applicant or successor in interest shall meet the following conditions:

1. The site plan, floor plan, elevations, and building sections submitted for building permits shall substantially conform to plans submitted and stamped "Received at Hearing, May 20, 2009", except as modified herein.
2. This approval will allow the applicant to: 1) Share four parking spaces with the neighboring Nehemiah church, located at 855 N. Orange Grove Blvd; 2) Permit a ground floor non-residential use to provide an interior depth of 30'2" where 50'0" is required; 3) Allow a commercial use to wrap around a corner lot with a depth of 30'2" where 50'0" is required and 4) Allow seven covered parking spaces for the residential component of the building where 14 are required.
3. Each unit shall be assigned one covered parking space at all times. One ADA parking space shall also be provided at all times on-site.
4. All potential tenants shall be notified through the lease terms that there is only one on-site covered parking space for each dwelling unit.
5. Overnight parking on the City street shall not be issued for this project. All prospective residents shall be informed of the unavailability of on-street overnight parking permits.
6. An exterior lighting plan, including specifications of the proposed fixtures, shall be submitted to the Zoning Administrator prior to the issuance of any building permits. No light sources (i.e. bulb) shall be visible from any location off the site. The lighting shall comply with the standards of Section 17.40.080 (Outdoor Lighting) of the Zoning Code.
7. No mechanical equipment, with the exception of solar collectors, shall be permitted on the roof unless properly screened, or in an enclosure designed to be architecturally compatible with the building. All screening must be reviewed and approved by the Zoning Administrator.
8. Prospective residents shall be informed that the site is a mixed-use development project in an urban area and that noise levels may be higher than a typical residential area.
9. Subject to Section 17.40.190 of the Zoning Code, all utilities shall be underground.
10. Landscaping and irrigation shall be installed in accordance with a detailed plan to be submitted to and approved by the Zoning Administrator prior to issuance of any building permits. Said plan shall include drought-resistant plant materials and low-volume irrigation where practicable. The plan shall be prepared by a licensed landscape architect and shall meet the requirements of Chapter 17.44.
11. All requirements from the Building Division, which include ADA requirements, shall be satisfied during the plan check process.
12. Prior to the issuance of building permits, the applicant shall obtain approval from the Design and Historic Preservation Section through the Design Review process.



13. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
14. The final decision letter and conditions of approval shall be incorporated in the submitted building plans as part of the building plan check process.
15. The proposed project, Activity Number **PLN2009-00013**, shall comply with all conditions of approval, subject to a Final Zoning inspection. Contact the Code Compliance Staff at (626) 744-4633 to verify the fee. All fees are to be paid to the cashier at the Permit Center located at 175 N. Garfield Avenue. The cashier will ask for the activity number provided above. The inspection would need to be prior to the final sign-off of the work being completed. Contact the Code compliance Staff at (626) 744-4633 to schedule an inspection appointment time.

**ATTACHMENT C**  
**CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #5257**

**MEMORANDUM - CITY OF PASADENA**  
**DEPARTMENT OF PUBLIC WORKS**

**DATE:** May 5, 2009

**TO:** Denver Miller, Zoning Administrator  
Planning and Development Department

**FROM:** City Engineer  
Department of Public Works

**RE:** Conditional Use Permit No. 5257  
877 North Orange Grove Boulevard

The Department of Public Works has reviewed the application for Conditional Use Permit No. 5257 at 877 North Orange Grove Boulevard. The application is to construct a three-story, seven-unit apartment project. The approval of this Affordable Housing Concession Permit should be based upon satisfying all of the following conditions:

1. In order to accommodate an Americans with Disabilities Act (ADA) compliant curb ramp, the applicant shall dedicate to the City the land necessary to provide a 30-foot radius property line corner rounding at the northwest corner of North Orange Grove Boulevard and Manzanita Avenue. The dedication will require the approval of the City Council. The applicant shall be responsible for all the costs required to complete the dedication. The dedication must be approved by City Council prior to the issuance of a Certificate of Occupancy.
2. The applicant shall construct a standard curb ramp at the northwest corner of North Orange Grove Boulevard and Manzanita Avenue per Standard Drawing No. S-414.
3. The applicant shall construct a new drive approach a minimum of 12 feet in width and in accordance with Standard Drawing No. S-403. The existing gutter shall be cut as near the flow line and the paving shall not be disturbed.
4. If drainage patterns are altered, the applicant shall provide an approved method of controlling storm water runoff. Approval shall be made by the Planning and Development Department and the Department of Public Works prior to issuance of a grading or building permit for this site.
5. If the proposed improvement drains to the driveway, the applicant shall construct a non-sump grate drain in the driveway at the back of the sidewalk, or by a method approved by the Department of Public Works.
6. Based on sewer deficiencies identified in the City's Master Sewer Plan, the applicant shall pay a Sewer Facility Charge to the City for the project's fair share of the

deficiencies. The Sewer Facility Charge is based on the Taxes, Fees and Charges Schedule and will be calculated and collected at the time of Building Permit Issuance.

7. The proposed development shall connect to the public sewer with a new house sewer consisting of a six-inch diameter vitrified clay or cast iron pipe laid at a minimum slope of two percent. The house sewer shall meet City Standards as determined by the Department of Public Works.
8. The existing street lighting system on Manzanita Avenue consists of utilitarian lights (mounted on wood power poles) and, therefore, does not meet present design standards. In order to improve pedestrian and traffic safety, the applicant shall install a maximum of two (2) new street lights on or near the frontage of the property, including conduits, conductors, electrical service (if necessary), pull boxes, and miscellaneous appurtenant work. The type and hardware shall conform to current policies approved by the City Council, and the locations shall be as approved by the Department of Public Works.
9. A composite utility plan showing the exact locations for proposed utility connections, existing utilities and proposed improvements in the public right-of-way (i.e. street trees, street lights, drainage structures, etc.) shall be submitted to the Department of Public Works for approval before any utility connection permits will be approved.
10. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging and Traffic Management Plan to the Department of Public Works for review and approval. The template for the Construction Staging and Traffic Management Plan can be obtained from the Department of Public Works webpage at: <http://www.cityofpasadena.net/publicworks/Engineering/default.asp>. A deposit, based on the General Fee Schedule, is required for plan review. This plan shall show the impact of the various construction stages on the public right-of-way including all street occupations, lane closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site. An occupancy permit shall be obtained from the department for the occupation of any traffic lane, parking lane, parkway, or any other public right-of-way. All lane closures shall be done in accordance with the WATCH Manual, 2006 Edition. If the public right-of-way occupation requires a diagram that is not a part of the WATCH Manual, 2006 Edition, a separate traffic control plan must be submitted as part of the Construction Staging and Traffic Management Plan to the department for review and approval.
11. Past experience has indicated that projects such as this tend to damage the abutting street improvements with the heavy equipment and truck traffic that is necessary during construction. Additionally, the City has had difficulty in requiring developers to maintain a clean and safe site during the construction phase of development. Accordingly, the applicant shall place a \$20,000 deposit with the Department of Public Works prior to the issuance of a building or grading permit. This deposit is subject to refund or additional billing, and is a guarantee that the applicant will keep the site clean and safe, and will make permanent repairs to the abutting street improvements that are damaged, including striping, slurry seal/resurfacing, curb, gutter, and sidewalk, either directly or indirectly, by the construction on this site. The deposit may be used for any charges resulting from damage to street trees. A processing fee will be charged against the deposit.

12. All costs associated with these conditions shall be the applicant's responsibility. Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in effect at the time these conditions are met. A processing fee will be charged against all deposits.

In addition to the above conditions, the requirements of the following ordinances will apply to the proposed project:

- o New Residential Impact Fee Ordinance - Chapter 4.17 of the PMC  
The ordinance was established to provide funds to mitigate the impact of new residential development on City parks and park and recreational facilities. A copy of the Residential Impact Fee Information Packet can be obtained at the Permit Center's webpage at: <http://www.cityofpasadena.net/permitcenter/FEES/fees.asp>. The applicant shall make a payment based on the Residential Impact Fee Structure that was amended as of December 3, 2005. Payment of the fee to the City shall be made at the Permit Center at 175 North Garfield Avenue.
- o Sidewalk Ordinance - Chapter 12.04 of the Pasadena Municipal Code (PMC)  
In accordance with Section 12.04.031, entitled "Abandoned Driveways" of the PMC, the applicant shall close any unused drive approach with standard concrete curb, gutter and sidewalk. In addition, the applicant shall repair any existing or newly damaged sidewalk along the subject frontage prior to the issuance of a Certificate of Occupancy or any building permit for work in excess of \$5,000 pertaining to occupancy or construction on the property in accordance with Section 12.04.035, entitled "Inspection required for Permit Clearance" of the PMC.
- o City Trees and Tree Protection Ordinance - Chapter 8.52 of the PMC  
The ordinance provides for the protection of specific types of trees on private property as well as all trees on public property. No street trees in the public right-of-way shall be removed without the approval of the Urban Forestry Advisory Committee.
- o Construction and Demolition Waste Ordinance, Chapter 8.62 of the PMC  
The applicant shall submit the following plan and form which can be obtained from the Permit Center's webpage at <http://www.cityofpasadena.net/permitcenter/plansubreq/cndord.asp> and the Recycling Coordinator, (626) 744-7175, for approval prior to the request for a permit:
  - a. C & D Recycling & Waste Assessment Plan – Submit plan prior to issuance of the permit. A list of Construction and Demolition Recyclers can be obtained from the Recycling Coordinator.
  - b. Monthly reports must be submitted throughout the duration of the project.
  - c. Summary Report with documentation must be submitted prior to final inspection.

A security performance deposit of three percent of the total valuation of the project or \$30,000, whichever is less, is due prior to permit issuance. This deposit is fully refundable upon compliance with Chapter 8.62 of the PMC. A non-refundable Administrative Review fee is also due prior to permit issuance and the amount is based upon the type of project.

If you have questions regarding the above conditions and requirements of the ordinances, please contact Sean Singletary, of this office, at (626) 744-4273.



DANIEL A. RIX  
City Engineer

DAR:ss

**ATTACHMENT D  
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #5257**

**MEMORANDUM - CITY OF PASADENA  
DEPARTMENT OF TRANSPORTATION**

**DATE:** April 9, 2009

**TO:** Denver Miller, Zoning Administrator  
Planning and Development Department

**FROM:** Mike Bagheri, Transportation Planning and Development Manager

**RE:** Conditional Use Permit (CUP) #5257  
877 Orange Grove Blvd – Nehemiah Court Apartments

The Department of Transportation has reviewed the application for CUP#5257 regarding the construction of a three-story mixed use project that will have seven multi-family residential units and one 1,380 sf commercial unit. Four existing housing units will be demolished for this proposed development. The applicant is applying to provide less than the required parking that the zoning code requires, deviating from the commercial depth requirement for a mixed use development, and would like to have a shared parking agreement with an abutting development. The approval of this affordable housing concession permit is based upon satisfying all of the following conditions:

1. All zoning code required loading zones for the development shall be located on site.
2. Any parking entry gate, if proposed, shall be set back a minimum of twenty feet from the property line. The gate must be included on the site plan and approved by the Department of Transportation prior to the issuance of the first permit for construction (i.e. demolition, foundation, grading, or building).
3. In accordance with Chapter 17, Section 50.160 (K.) of the Pasadena Municipal Code, City Permits for overnight parking on City streets will not be issued to future tenants at this address. The applicant shall be responsible for advising future tenants of the unavailability of on-street overnight parking permits.
4. The location(s) of zoning-required bicycle parking shall be shown on the plans and approved by the Department of Transportation prior to the issuance of the first permit for construction (i.e. demolition, foundation, grading, or building).
5. The location(s) of existing off-site street parking, including parking identifiers and furniture (signs, striping, curb markings, parking meters), shall be shown on the existing site plan to inventory pre-construction conditions.



MIKE BAGHERI

Transportation Planning and Development Manager