



OFFICE OF THE CITY CLERK

April 12, 2007

Mr. Greg Galletly
AACP Properties LLC
c/o Dorn Platz & Co.
P.O. Box 50025
Pasadena, CA 91115

Re: **AMBASSADOR WEST PROJECT – REQUEST FOR APPROVAL OF A
CONDITIONAL USE PERMIT FOR OPERATION OF A NEW 450,000 SQUARE
FOOT SENIOR LIFE/CARE FACILITY; A TRANSFER OF DEVELOPMENT
RIGHTS IN THE WEST GATEWAY SPECIFIC PLAN ZONE; AN
ADJUSTMENT PERMIT TO MODIFY CERTAIN DEVELOPMENT CODES ON
THE 19.7-ACRE AMBASSADOR WEST SITE FOR CONSTRUCTION OF THE
SENIOR FACILITY AND 70 RESIDENTIAL CONDOMINIUMS; PRIVATE TREE
REMOVAL REQUESTS; A VESTING TENTATIVE TRACT MAP; AND A
SUBDIVISION MODIFICATION**

Dear Mr. Galletly:

At its regular meeting on Monday, April 2, 2007, the City Council considered the above-referenced matter. At the conclusion of the public hearing, the City Council approved two motions, as follows:

- (1) Approved the City Manager's recommendations as set forth in the March 12, 2007 agenda report and the revised City Manager's recommendations as set forth in the City Manager's cover memorandum dated April 2, 2007 (additional Recommendations A, B, and C), excluding from this motion the approval of the Conditional Use Permit and Condition No. 52 (to be voted on by a separate motion), and with the following modification (to City Manager's revised Recommendation A) regarding the transfer of development rights to first use the remaining balance from the West Gateway Specific Plan housing unit allocation to accomplish the density of the project; and that the lower campus building be moved 10 feet to the north along the entire project boundary north of the Ambassador Auditorium.

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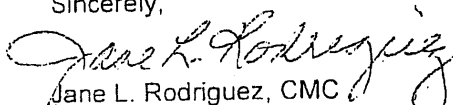
- (2) Approved the Conditional Use Permit, with the following changes:
- (a) That there would be a 10,000 square foot reduction on the lower campus project (from 334,000 square feet to 324,000 square feet);
 - (b) That the upper campus and the lower campus projects are approved with a maximum entitlement range of 420,000 – 440,000 square feet; and
 - (c) Condition 52 is approved with the following words deleted: "as long as the overall square footage is not reduced below 450,000 square feet in the process."

It was clarified for the record that beyond the 10,000 square foot reduction on the lower campus, there should be flexibility to move around the density, if necessary, to accomplish the design goals.

Enclosed for your records are copies of: the City Manager's April 2, 2007 memorandum to City Council with revised Recommendations A, B, and C; City Manager's March 12, 2007 agenda report with Recommendations 1-4 (without all the attachments); Resolution No. 8723 certifying the Final Environmental Impact Report for the project and adopting Environmental Findings, A Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program; a copy of the Revised Conditions of Approval based on Council's action above; and a copy of the Notice of Determination for the project filed with the Los Angeles County Clerk on April 4, 2007.

If you have any questions regarding the above action, please do not hesitate to contact me.

Sincerely,


Jane L. Rodriguez, CMC
City Clerk

Enclosures

cc: Darrell Cozen, Planning Department (w/all Attachments)
Scott Reimers, Planning Department (w/all Attachments)
Julie Yamamoto, Planning Department (w/out Attachments)
Sarkis Nazerian, Building Division (w/revised Conditions)
Theresa Fuentes, City Attorney's Office (w/all Attachments)
Doug Myers, Fire Department (w/revised Conditions)
Stalice Wilmore, Health Department (w/revised Conditions)
Sean Singletary, Public Works Department (w/revised Conditions)
David Bratzler, Power Division of PWP (w/revised Conditions)
Joseph Gachiri, Water Division of PWP (w/revised Conditions)
City Clerk's Legislative File (w/out Attachments)
Dale Brown, AIA, 16 N. Marengo Ave. #700, Pasadena, CA 91101 (w/all Attachments)
City Council (w/revised Conditions)

ATTACHMENT C

REVISED CONDITIONS OF APPROVAL FOR AMBASSADOR WEST PROJECT

Per City Council action of April 2, 2007

The applicant or successor in interest shall comply with the following requirements:

BUILDING DIVISION, PLANNING AND DEVELOPMENT DEPARTMENT

1. **TDM and TRO:** The final plans submitted for building permits must show that all Transportation Demand Management (TDM)/Trip Reduction Ordinance (TRO) ~~requirements are met, including bicycle parking.~~
2. **Conditions Noted in Plans:** At plan check, all conditions and mitigation measures and their methods of resolution shall be clearly presented in written graphic form and incorporated into the plans at the time of submittal.
3. **Demolition Plan:** A final demolition and construction plan shall be submitted to the Department of Public Works prior to the preliminary plan check.
4. **Landscaping During Demolition:** The Applicant or successor in interest shall implement landscaping on the project site if construction activities do not commence within 60 day of clearing the site of existing buildings or if construction work should stop for unforeseen reasons. Landscaping shall include an above ground irrigation system. The landscaping may be removed once construct activities commence/resume.
5. **Pest Control:** Prior to the demolition of any building, the applicant shall contact a licensed pest agency to conduct a thorough inspection of the subject property, and if necessary exterminate any rodents or pests that may exist. The preventive measure will reduce the likelihood of the new development housing any of the existing population of pests. A complete and final inspection report shall be submitted at the time of application for demolition.
6. **Green Building Practices:** All buildings in the project shall comply with the Green Building Practices Ordinance (PMC 14.90) except for the rehabilitation of the existing historic structures and existing structures that contribute to an eligible landmark district. All other project buildings must demonstrate environmental soundness by incorporating all of the following for each building:
 - a. Register the building with the USGBC prior to issuance of a building permit
 - b. Retain the services of a LEED Accredited Professional
 - c. Submit the applicable LEED checklist indicating points meeting at a minimum LEED Certified level and supporting documentation required by the City for Green Building review. The LEED checklist shall be incorporated in the building plan set and prepared, signed and dated by the project LEED AP. All building construction documents, including specifications, shall indicate where feasible, the green building measures employed to attain the applicable LEED credit rating.
7. **A Construction Related Noise Plan:** is required as part of the Construction Staging Plan. This plan must show the location of any construction equipment and how the noise from this equipment will be mitigated by such methods as: temporary noise attenuation barriers; preferential location of equipment; and use of the current technology and noise suppression equipment.
8. **Condition Monitoring:** The proposed project shall comply with all conditions of approval, and is subject to Condition Monitoring by the City Condition Monitoring Coordinator and a Final Zoning Inspection. A Final Zoning Inspection is required for the project prior to the issuance of a Certificate of Occupancy. Required fees for

monitoring and inspections shall be paid on or after the effective date of permit, but prior to the issuance of any building permit. Contact the Code Compliance Staff at (626) 744-4633 to verify the fees and to schedule an inspection appointment time. All fees are to be paid to the cashier at the Permit Center located at 175 N. Garfield Avenue. Failure to pay the required fees prior to the stipulations in this condition may result in revocation proceedings of this land use entitlement.

9. **Grading and Staging Plan:** A grading and staging plan shall be submitted to and approved by the Zoning Administrator/Building Official and Public Works prior to the issuance of any grading or building permits.
10. **Soils Report:** A soils report shall be submitted to the Building Division for approval prior to the issuance of any grading or building permits.
11. **Runoff on Adjacent Lots:** No runoff created by new grading shall flow onto adjacent properties and be in compliance with NPDES.
12. **Fire Department Regulation:** The project shall comply with all regulations of the Fire Department.

FIRE DEPARTMENT

13. The proposed project shall be designed, constructed, and operated in compliance with the Health & Safety Code (HSC) Section 13145, California Code of Regulations (CCR), Title 19; Title 24, Editions Adopted by Federal, State and Local enforcement agencies at time of Construction Submittals Parts 1-12 and the Memorandum entitled "City of Pasadena Fire Department Notes" dated October 11, 2006 and/or as amended based on Construction Codes and Ordinances adopted by Federal, State and Local enforcement agencies at time of Construction Submittals.

HEALTH DEPARTMENT

14. **State and Federal Licensing:** The applicant shall continuously operate the life/care facility in compliance with all State and Federal laws and maintain all appropriate licenses with the State of California.

PLANNING DIVISION, PLANNING AND DEVELOPMENT DEPARTMENT

General

15. The City Council, at any time, can call for a review of the approved conditions at a duly noticed public hearing. These conditions may be modified or new conditions added to reduce any impacts of the use. The City Council may revoke the Conditional Use Permit if such cause is given.
16. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
17. The site plan submitted for building permits shall substantially conform to the overall site plan submitted with for the Environmental Impact Report and the site plans submitted with this application and dated December 19 and 20, 2006, except as modified herein. If conflicts in these site plans exist, the more recent submittal shall prevail.
18. All work on the Sunrise Senior Living Facility shall be completed within six years of the effective date of this approval.
19. The project shall comply with all Mitigation Measures as outlined in the Ambassador West Project Final Environmental Impact Report MMRP dated December 2006 that is included in Attachments A and B (Mitigation Monitoring and Reporting Plan) to this report.

20. The applicant or successor in interest shall retain a Mitigation Monitoring Coordinator (Mitigation Coordinator) with experience on large construction projects to serve as a liaison between the development/construction team and the City. The Mitigation Coordinator will monitor the implementation of the Mitigation Monitoring and Reporting Program as specified in the project Environmental Impact Report, and prepare and submit written weekly reports to the Condition/Mitigation Monitoring Coordinator of the City of Pasadena. The format of the written reports is subject to approval by the Code Compliance Manager.
21. The applicant shall submit a transfer of development rights application and covenants memorializing the transfer to the Zoning Administrator in order to verify compliance with ~~Section 17.36.060 of the Pasadena Zoning Code and this condition of approval.~~ The applicant shall firstly use the remaining units within the West Gateway Specific Plan allocation to fill the Sunrise Senior Living Facility's deficit in development allocation. Units withdrawn from the West Gateway Specific Plan's allocation shall be converted to square footage at a rate of 1,506 per unit. Secondly the applicant shall transfer development rights from any of the parcels within or adjacent to the project site, except for the Great Lawn. Prior to issuance of a building permit, the covenant shall be approved by the Zoning Administrator and proof of recordation with the County of Los Angeles Recorders Office shall be provided.
22. No educational, institutional, or office uses are approved in the existing buildings on the 19.72 acre site through these applications. Any such uses are subject to additional zoning applications and approvals.
23. Any changes proposed to the site features in Figure 3.4-14 that are identified as contributing features in the FEIR shall be reviewed and approved by staff or the Design Commission in accordance with the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitation in consideration of their value as contributing features to the historic properties on the site.
24. If retaining walls are required, elevations, sections, and construction details, including materials to be used, shall be submitted to and approved by the Building Official prior to issuance of any building permits.
25. The applicant shall submit an Inclusionary Housing application/plan for review and approval prior to submittal of final plans for Plan Check.
26. A Transportation Demand Management Plan (TDM) for the Senior Life/Care Facility shall be submitted to the Director of Transportation prior to issuance of a building permit (or final design review). This plan shall be reviewed and approved by the Director of Transportation prior to the issuance of a building permit. The Plan shall be implemented for the Sunrise Senior Living Facility's employees and residents.
27. The applicant shall obtain approval from the Design and Historic Preservation Section through the Design Review process.
28. The applicant or successor in interest shall provide site plans at Concept Design Review that indicate the location of all utility lines and facilities that run through, connect into, or adjacent to the project site.

Grading/Soils

29. A soils report shall be submitted to the Building Division for approval prior to the issuance of any grading or building permits.
30. All runoff shall be directed to the street in a drainage device approved by the Public Works Department.
31. 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.
32. All graded slopes shall conform to the pattern of the natural terrain.
 33. Areas of the site not covered by structures shall be maintained with landscaping. The applicant shall submit a final landscape and irrigation design plan by a landscape architect. The final landscape and irrigation plan shall meet the requirements of 17.44.050 (Landscape Documentation Package) and 17.44.060 (Landscape Location Requirements) The landscaped areas shall be maintained in accordance with Chapter 14.50 and Section 17.44.080 (Maintenance of Landscaping) of the Zoning Code.
 34. No physical barriers will bar the general public from access to the Great Lawn, Grove Walk and Stream and other walks, as proposed in the application materials for the subject permits and in the Urban Forestry Plan dated July 24, 2006, in Appendix D of the FEIR.
 35. Lot coverage across the entirety of the WGSP-1B portion of the site shall not exceed 35%

Tree Protection Ordinance

36. A tree protection plan prepared by a licensed landscape architect or arborist shall be submitted to the Zoning Administrator prior to the issuance of any building or grading permits for all trees potentially affected by the permits. To ensure that the tree retention is successful, the following minimum requirements shall be met: a. All grading within the drip-line of existing trees shall be done by hand; b. Cutting through woody roots shall not be allowed; c. All foundations shall step over major roots; and d. No difference in grade shall be allowed at the base of the trees.
37. Any modifications proposed to a significantly desirable tree to be retained on the site must be included on the tree protection plan and may be approved by the Zoning Administrator on the basis of the health of the tree and on the basis of whether the project approvals would be substantially affected by the proposed modification to the tree. The Zoning Administrator may require that trees be added to the site if the modifications proposed to significantly desirable trees substantially affect the landscaping of the site. A "significantly desirable tree" shall be considered one that cannot be replaced in terms of height, trunk diameter, and drip line by a thirty-six inch box tree of this condition.
38. Prior to issuance of any grubbing or grading permit or approval, the tree protecting fencing shall be installed and inspected. Fencing shall be provided at or beyond the drip-line around all trees that will be impacted by construction and shall extend to the dripline of the trees.
39. The applicant shall place at least three waterproof placards on the tree protection fencing for each protected tree. The placards shall state that the fencing shall not be removed without authorization from the City.
40. A certified arborist shall submit to staff inspection results for protected trees, signed and dated at predetermined construction phases (e.g. pre-construction, grading, foundation, framing, final).
41. The canopy coverage of all trees removed from each parcel shall be replaced either on-site or off-site in accordance with the FEIR mitigation measures, prior to issuance of a certificate of occupancy for each parcel. This refers to any trees in Appendix D, Exhibit 2 of the FEIR.
42. Proposed locations for relocated trees on-site shall be reviewed and approved by the Design Commission during design review.
43. The Design Commission shall review and consider all mature trees proposed for removal or relocation that are at least five feet outside of a proposed building or

basement footprint with the intention that some of these mature trees may be protected in place (without a guarantee of survival) through careful construction of the buildings.

Parking

44. A minimum of 279 on-site parking spaces shall be provided for Sunrise Senior Living in accordance with a detailed plan to be submitted to and approved by the Zoning Administrator prior to issuance of any building permits. All parking areas shall conform to the requirements of Chapter 17.44 (Parking and Loading) of the Pasadena Zoning Code.
45. A parking plan for the construction phase shall be submitted to and approved by the Zoning Administrator prior to the issuance of any permits. ~~The parking plan shall~~ include the maximum number of employees working on the construction of the project and shall include a minimum of one parking space for each 1.2 employees. Parking shall be provided in accordance with the regulations of Chapter 17.46 (Parking and Loading) of the Pasadena Zoning Code.
46. The applicant shall meet all of the requirements of 17.46.310 & 17.46.320 (Electric Recharge Stations and Bicycle Parking Standards) of the Zoning Code. Final location of the bicycle parking, type of bicycle racks, and location of the electric recharge stations shall be reviewed by the Public Works and Transportation Departments.
47. To offset the parking on Parcels 1 and 2 that are currently available to Harvest Rock Church as a courtesy by the applicant, if 20 or more excess spaces typically exist in either Sunrise garage, the applicant shall continue to make such excess parking available to patrons of Ambassador Auditorium events at prices comparable to private parking lots in Old Pasadena. The applicant may require Ambassador Auditorium to provide parking and security personnel and appropriate liability insurance during such events.

Sign

48. A sign plan, showing the size and location of all signs shall be submitted to and approved by the Zoning Administrator prior to the issuance of a certificate of occupancy. The sign plan is intended for the overall review of a signage for the project and shall not be construed to be a waiver of the requirement of a building permit for the construction of the signs included on the sign plan.
49. Guest parking signs shall be clearly posted at the property ingresses. The sign lettering shall be large and easy to read to the satisfaction of the Zoning Administrator.

Lighting

50. An exterior lighting plan for the affected parcel, 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. The lighting plan shall include the following: luminaire height; luminaire and standard technical specifications; intensity of illumination measured at the least point of illumination and the greatest point of illumination when measured from ground level; type of light source (Metal Halide, High Pressure Sodium, etc.); hours of illumination; and photometric plan superimposed on the site plan for each classification of lighting with points no greater than 30 feet apart.

Design

51. ~~For the Sunrise Senior Living units, provide additional vertical modulation of the building by stepping back the fifth and sixth floors in places in order to soften the~~

massing of the building. Additional vertical modulation not to exceed 12 feet shall be possible without an amendment to the Adjustment Permit, subject to Design Review approval by the Design Commission.

52. For the Sunrise Senior Living units, the Design Commission shall have the leeway to consider design options at Concept Design Review regarding massing, height, and setback of the south and west facades of the "lower campus" building, including the bridge.
53. For the Standard Pacific multi-family units, reduce the height of the east portion of Parcel 5's L-shaped building to respect the lower height of the historic Terrace Villa nearby to the satisfaction of the Design Commission.
54. Provide height, mass, and setback modulation along the eastern elevation of the easterly building of Parcel 9 (i.e., where it overlooks the ridge to the east) to the satisfaction of the Design Commission.

Waste Disposal

55. A trash enclosure shall be provided in accordance with the requirements of Section 17.40.120 (Refuse Storage Facilities) of the Zoning Code. The location of such enclosure shall be approved by the Zoning Administrator and the Public Works Department.

Fixtures

56. No mechanical equipment, with the exception of solar collectors, shall be permitted on any 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.
57. Screening of mechanical equipment shall be provided in accordance with Section 17.40.150 (Screening) of the Zoning Code.

Decision Letter

58. The proposed project is subject to the City's Condition/Mitigation Monitoring Program and are also subject to Final Zoning inspection. Condition Monitoring (or Mitigation Monitoring) is required for your project. Under the Monitoring Program, your project will be inspected by Code Compliance staff to determine compliance with the conditions of approval. The Condition/Mitigation Monitoring inspection will occur during the term of the project. The Final Zoning Inspection will occur at the completion of the project. Required monitoring fees for inspections shall be paid on or after the effective date of this permit, but prior to the issuance of any building permits. 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. Failure to pay the required monitoring fees prior to initiating your approved land use entitlement may result in revocation proceedings of this entitlement.
59. The proposed project, Activity Number BLD200_-0000, was approved subject to the Inspection Program by the City. A Final Zoning Inspection (or City of Gardens Inspection) is required for your project prior to the issuance of a Certificate of Occupancy. Contact the Code compliance Staff at (626) 744-4633 to schedule an inspection appointment time.

Additional Conditions

60. Prior to issuance of building permits for the increased apartment units on Parcels 7 or 13, the owners of the parcels transferring units to these Parcels shall record a transfer

of development rights covenant with the County Recorders Office stating that the units allowed there above the permitted density of 14 units/acre are transferred from certain other defined lots within the WGSP-1B zone. The covenant shall be reviewed and approved by the City Attorney and the Planning Division prior to recordation.

61. The operator of the life/care facility shall continuously operate a private dial-a-ride transportation system for the residents as determined appropriate by the City (Section 17.50.120 K).
62. The applicant shall pay for the purchase and installation of all streetscape improvements called for in the Old Pasadena Streetscape, Alley and Walkway Plan along the south side of Green Street between S. Orange Grove Blvd. and S. St. John Ave. and both sides of Green Street between S. St. John Ave. and S. Pasadena Ave.

This includes installation of California Fan Palms (or other tree specified by the City), tree grates, trash receptacles, street lighting, and benches. The number, type, and location shall be determined by the Public Works Department and Caltrans, as applicable.
63. The purchasers of the condominiums (senior and regular) shall be clearly informed that in lieu of the residential impact fee, which is a park fee, there is a public easement for access and use of Parcel C and that the maintenance thereof shall remain a responsibility of the property owners (who receive the major benefit from this space).
64. As volunteered by the applicant, prior to the issuance of the first building permit for the senior living component of the project, the applicant shall provide Harvest Rock Church an amount of money not to exceed \$10,000 to defray any additional maintenance costs regarding the pool filtering, air conditioning, and exterior cleaning of the Ambassador Auditorium during project construction due to dust and particulate matter.
65. Subject to review and approval by the Department of Transportation and the City Engineer, the applicant has offered to and shall provide T-intersections at Orange Grove driveways to prohibit left-turns into and out of the driveways.
66. To enhance the public benefit from the public use of the Great Lawn and the access route to Green Street, the applicant has agreed to and shall provide informative markers about the history of the site in a series of locations between the Great Lawn and Green Street. Obtain approval for the design and wording from the Historic Preservation Commission.
67. The applicant shall provide proof of clear title and ownership satisfactory to the City Attorney's office over all areas in the application prior to issuance of building permits on any of the parcels.
- 67A. The applicant shall execute and abide by an indemnity agreement with the City of Pasadena. The agreement shall indemnify the City from all liabilities and costs (including attorney's fees) arising out of any claims by Harvest Rock Church in connection with the project site, the City's approval of the lot line adjustment, or certification of the EIR.

POWER DIVISION, PASADENA WATER AND POWER DEPARTMENT

68. **Transformer Room/Vault:** Customer shall provide a separate transformer room / vault for both the Upper and Lower Campus Developments and for each individual parcel under consideration. The size and location of each required transformer room / vault shall be determined by the size of the electrical service for each development. This requirement applies to all parcels where the required electrical service is rated over 200 Amps single-phase or over 100 Amps three-phase for any new or existing buildings.

69. **Transformer Room 3-Hour Fire Rating:** Any required transformer room / vault located within a building structure shall be rated for 3-hour fire separation and meet all local Fire Department requirements related to room ventilation and alarming.
70. **Maintenance of Transformer Room/Vault:** Customer shall be responsible for the maintenance of each transformer room / vault; provide protection for the equipment in each transformer room / vault, and allow access to each transformer room / vault at all times to Department personnel and vehicles in accordance with the Department Electric Service Requirements Regulation 21.
71. **Primary Service:** Preliminary review indicates that the Department shall serve each development from primary service laterals on West Green Street (Parcels 1, 2, and 3), South Orange Grove Blvd (Parcels 5 and 9), and West Del Mar Blvd. (Parcel 16) . The specific location of the laterals will be determined based on the final location of each transformer room / vault. Prior to issuance of building permits, applicant shall submit a Primary Power Service Plan to PWPD for approval showing specific location of the laterals and each transformer room / vault for the construction to be approved under said building permit.
72. **Laterals and Conduits:** Customer shall pick-up new primary service laterals at the property line adjacent to public street right-of-way and install concrete-encased conduits to each transformer room / vault within the development area. The specific location of the conduits will be determined based on the final location of each transformer room / vault.
73. **Responsibility to Install Transformer Room/Vault:** Customer shall install each transformer room / vault, service equipment, and secondary service conduits within the development area.
74. **Responsibility to Install Transformer:** Department shall install electrical service transformers, cables, and meters.
75. **Payment by Customer:** All Department installation costs shall be paid by the Customer.
76. **Notification of Conflicts:** Customer must identify and notify the Department of any conflict with existing overhead lines / poles and maintain existing ingress / egress access for overhead lines / poles. Proper clearances between the proposed structure and overhead lines / poles must be maintained. Customer must identify and notify the Department if there is any underground electrical conduit within the proposed development area in conflict with the construction.
77. **Provision of Easements:** Customer shall provide Department all easements necessary for Department to access electrical service equipment.
78. **Drawing Requirements:** In order to determine the specific requirements of the electrical service for this project, the following items will need to be included in the submittal drawing set (2 sets of electrical plans required): service size & voltage, main service disconnect, scaled site plan, elevation plan, proposed transformer room / vault location, electrical meter / panel location, single-line diagram, load calculation, and proposed construction schedule.

SOUTHERN CALIFORNIA GAS COMPANY

79. No gas meters shall be located in the subterranean garages.

WATER DIVISION, PASADENA WATER AND POWER DEPARTMENT

80. **New Water Main in Orange Grove:** The applicant is responsible for all related costs of installing a new eight inch water main in Orange Grove Boulevard.

PUBLIC WORKS DEPARTMENT

81. The applicant shall obtain a license agreement from the City for the installation of any private improvements within the public right-of-way, including, but not limited to, soldier beams, tie-backs, utility conduits and decorative sidewalk. The license agreement application for any private improvement within the public right-of-way shall be submitted to the Department of Public Works for review and shall be approved by the City Council prior to the construction of the private improvement. The license agreement will allow the applicant to install and maintain the private improvements within the public right-of-way with conditions.

A license agreement for shoring in the public right-of-way requires that all steel rods in every tie-back unit be relieved of all tension and stresses, and any portion of soldier beams and any portion of the tie-backs located less than ten (10) feet below grade be removed from the public right-of-way.

82. The applicant shall repave Green Street to the centerline along the subject frontage of the development. The existing pavement shall be cold milled and a new 2" rubberized asphalt overlay shall be installed.

The pavement in Green Street contains asbestos. Any excavation will require hazardous materials (Hazmat) removal conditions and requirements of the Department of Public Works. A certified environmental contractor will be required for any pavement removal in the street.

Excavations in the streets for utility connections shall be as close as possible to each other and the pavement shall be restored contiguously between extreme excavations.

83. A catch basin with connector pipe shall be constructed on the south side of Green Street near Saint John Avenue and connected to an existing storm drain system.
84. The developer shall execute a deed restriction which treats the new private streets in the development as private driveways to be maintained by the Home Owners Association (HOA) and property owners, and that the City will not maintain the private driveways, including but not limited to pavement, curb, gutter, sidewalk, drainage system, street lighting, trees, landscaping, and other related improvements. The HOA's covenants, clauses, and restrictions (CC & R's) shall be submitted to the Department of Public Works for review and approval. The developer or the HOA shall furnish to the Department a copy of the recorded HOA's CC & R's prior to the issuance of a Certificate of Occupancy.
85. The applicant shall dedicate to the City easements for public utility, sanitary sewer, and ingress and egress purposes. The exact width and limits of the easements shall be determined by the Department of Public Works.
86. If private streets are proposed or required by City Council, the applicant shall construct improvements for the private streets in the development per City of Pasadena standards, including concrete sidewalk, curb ramps, curb and gutter, storm drain system, pavement, street lights and "private street" signs, trees, and other related necessary work as determined by the Department of Public Works. Private streets shall be constructed with minimum one percent grades. In order to comply with the Americans with Disabilities Act (ADA) requirements, a minimum of five-foot wide concrete sidewalk shall be constructed on both sides of the private streets. The concrete sidewalks shall have two percent cross slopes. Curb ramps shall be constructed at the intersection of private streets where there is a five-foot wide sidewalk. Trees, fire hydrants, and street lights shall not be installed in the sidewalk area, but behind the sidewalks. Utility boxes shall not be installed in the driveway aprons.
87. If private streets are proposed or required by City Council, the applicant shall install "private street" signs at the main entrances/exits. Approval of the "private street" signs,

- including the locations for the signs, by both the Departments of Public Works and Transportation will be required prior to the installation of the signs.
88. All street corners shall have curb ramps that comply with the City Standard S- 414. Existing curb ramps shall be modified or reconstructed to meet the standard.
 89. The applicant shall construct all new drive approaches 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. All drive approaches shall have a minimum of five feet clearance from the trunks of street trees.
 90. The applicant has requested a dedication of land in the form of a Public Park Easement in lieu of payment of the Residential Impact Fee. The applicant shall enter into a Public Park Easement Agreement approved by the City Council prior to the issuance of a building permit. This Agreement will specify easements for Restricted Use/Open Space/Parks and Public Access areas and park improvements to be installed by the applicant. If the Public Park Easement Agreement has not been executed prior to a building permit request, the applicant shall make a payment based on the Residential Impact Fee Structure that was amended as of December 3, 2005.
 91. The proposed development will discharge sewage into the City's sewer system that will drain into a deficient sewer located on Raymond Avenue between Bellevue Street and California Boulevard. There is also a potential sewer deficiency in Saint John Avenue. The applicant shall mitigate these sewer capacity deficiencies by performing a detailed sewer study of all city sewer pipes downstream of the project, determine the ability of the pipes to safely accommodate the additional sewer flows generated, and replace deficient pipe segments with larger size pipes. In lieu of the proceeding requirement, the applicant may pay their share of sewer improvements and analysis needed to replace and upgrade the sewer system, determined to be \$306,498. This consists of \$290,950 as the development's share of correcting the sewer capacity deficiency, and \$15,548 for the developments share of sewer monitoring and analysis necessary to determine the impact of the project on the City system. Said payment may be used by the City to correct the above mentioned deficiency, or, at the City's sole discretion, may be used to correct other sewer system deficiencies.
 92. The proposed development shall connect to the public sewer with a new house sewer consisting of one or more 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.
 93. If private streets are proposed or required by City Council, the applicant shall install a street lighting system for the private streets. The type, hardware, and locations shall be determined by the Department of Public Works.
 94. If the existing street lighting system along the project frontages is in conflict with the proposed development and or drive approaches at the main entrances/exits, it is the responsibility of the applicant to relocate the affected street lights, including conduits, conductors, electrical services, pull boxes and miscellaneous appurtenant work in a manner that complies with the requirements and receives the approval of the Department of Public Works.
 95. Existing metal street lights along the project frontage shall be re-painted as directed by the Department of Public Works.
 96. Plans must be submitted to the Department of Public Works for approval showing any structures, irrigation, footings, grading or plantings that impact City street trees. The plans must conform to the Tree Protection Standards which specifically require showing the locations of all existing trees, their diameters and actual canopies as well as any trees to be planted with their canopy at mature size.

98. The applicant shall plant and maintain, for a period of three years, a maximum of ten (10) officially designated street trees per the City approved master street tree plan on the Green Street frontage and install and permanently maintain an irrigation system for the trees. Locations will be finalized in the field by the Department of Public Works. Trees must meet the City's tree stock standards, be inspected by the City, and be planted according to the details provided by the Parks and Natural Resources Division. The trees shall be approved by the Forestry Supervisor prior to the issuance of a Certificate of Occupancy. Plans for the irrigation system shall be prepared by a landscape architect registered in the State of California and submitted to the Department for review and approval.
- ~~99. The applicant shall submit to the Department of Public Works a grading and drainage plan and hydrology study for review and approval prior to the issuance of a building permit. The grading and drainage plan and the hydrology study shall be prepared by a licensed civil engineer registered in the State of California. The hydrology study shall include calculations for the quantities of storm water runoff for the pre-development and post development conditions and how drainage will be handled. On-site drainage shall be connected to an off-site drainage system whenever possible.~~
100. 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.
101. If water is pumped from the subterranean parking garage before discharging into the public right-of-way, the applicant shall install a drainage structure in private property to dissipate energy from the pumped water.
102. 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.
103. The applicant is responsible for design, preparation of plans and specifications, and construction of all required public improvements. Plans for the above improvements shall be prepared by a civil engineer, registered in the State of California. Upon submission of improvement plans to the Departments of Public Works for checking, the applicant will be required to place a deposit with the department to cover the cost of plan checking and construction inspection of the improvements. The amount of deposit will be determined when the plans are submitted and will be based upon the estimated cost to the department for the work. Note that plans approved by the City Planning and Development (Building) Department do not include approvals for work in the public right-of-way. Independent plans shall be submitted to the Department of Public Works – Engineering Division. The applicant is encouraged to submit these plans as early as possible to avoid delays in the issuance of Certificates of Occupancy.
104. If pruning of street trees is required to facilitate the construction of the project, pruning of the street trees shall be done by the City's Parks and Natural Resources Division crew. The applicant shall be responsible for the cost of pruning the street trees and submit to the Department of Public Works a deposit, amount to be determined by the Department and subject to refund or additional billing, for the City crew to prune the street trees.
105. All new street trees along the frontages of the subject property shall be irrigated for the duration of the construction of the project.
106. 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 and for City personnel to review traffic control plans and maintain traffic control. A processing fee will be charged against the deposit.

107. 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 flat fee, 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 Manual of Uniform Traffic Control Devices (MUTCD) and California Supplement. If the public right-of-way occupation requires a diagram that is not a part of the MUTCD or California Supplement, 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.
108. The applicant's engineer shall be required to set boundary monuments on the proposed subdivision per Pasadena Municipal Code, Section 16.24.060, and furnish to the City a set of original field notes.
109. All costs associated with these conditions shall be the applicant's responsibility.
110. 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.
111. Upon submission of the final tract map to the City for approval by the City Council, the applicant shall supply the City with 24 copies of the final map, and pay a flat fee of \$100 to have appropriate record quality copies of the recorded map made by the City for public record purposes and a deposit (based on the current General Fee Schedule) to cover the cost of processing the final map. The applicant shall complete all required conditions before City Council approval, or provide a Letter of Credit or cash deposit to cover all unfinished public improvements as quantified in an approved cost estimate. Currently, the County of Los Angeles Department of Public Works is utilizing the computer to update and digitize the countywide land use base. It is required that the applicant's engineer submit a map in digital format with the final Mylar map to the County of Los Angeles Department of Public Works for recordation and to the City of Pasadena Department of Public Works for incorporation into its GIS land use map. The City of Pasadena's GIS Coordinate System must be used for the digital file. The applicant's engineer shall contact the City to obtain information on the City's GIS Coordinate System prior to preparation of the digital file.
112. In addition to the above conditions, the requirements of the following ordinances will apply to the proposed project:

- 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 Stormwater Management and Discharge Control Ordinance - Chapter 8.70 of the PMC: This project is subject to the requirements of the City's Storm Water and Urban Runoff Control Regulation Ordinance which implements the requirements of the Regional Water Quality Control Board's Standard Urban Storm Water Mitigation Plan (SUSMP). Prior to the issuance of any demolition, grading or construction permits for this project, the developer shall submit a detailed plan indicating the method of SUSMP compliance. Information on the SUSMP requirements can be obtained from the Permit Center's webpage at <http://www.cityofpasadena.net/permitcenter/plansubreq/cndord.asp>.
- 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>. Alternatively, the applicant may satisfy the Ordinance through entering into a Park Easement Agreement with the City of Pasadena. If no Park Easement Agreement is executed, 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 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.
- o 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.

113. The developer shall execute and abide by a local hire agreement with the City of Pasadena.
114. The Lower Campus portion of the Sunrise Senior Living building shall be set back an additional 10 feet from the south property line, as compared to the location shown in the plans reviewed by the Council on March 12.
115. The Lower Campus portion of the Sunrise Senior Living project shall be reduced by 10,000 square feet (from 334,000 to 324,000 square feet).
116. The proposed Upper and Lower Campus buildings of the Sunrise Senior Living complex are approved with a maximum entitlement range of 420,000 to 440,000 square feet.

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ZONING ADMINISTRATOR INTERPRETATION

DATE: Revised June 17, 2010; revised by the Board of Zoning Appeals October 20, 2010

CODE SECTION: 17.64.040.A – Time Limits and Extensions and 17.64.080.A - Discontinuance

QUESTION NEEDING INTERPRETATION: When a project involves the construction of multiple structures and is phased over an extended period, when is the entitlement deemed "exercised" and when does it expire? When does the remainder of the entitlement expire if only a single phase is completed?

INTERPRETATION:

The above question has arisen because an applicant had requested a building permit for a portion of a project that was approved through a Conditional Use Permit eight years ago. All but the final phase of the project was completed; the final phase consisted of the construction of a new building. The Certificates of Occupancy were issued for the previous phases with the most recent one having been issued more than five years previous. The applicant had raised the question as to whether or not the Conditional Use Permit was still valid for the final phase of the project.

Subsection 17.64.040.A states:

A. Time limits.

1. Unless conditions of approval or other provisions of this Zoning Code establish a different time limit, any permit or approval granted in compliance with Chapter 17.61 (Permit Approval or Disapproval) that is not exercised within 24 months from its effective date shall expire and become void, except where an extension of time is approved in compliance with Subsection B. below.
2. The permit shall not be deemed "exercised" until a Building Permit for the subject project has been issued, and construction diligently pursued to completion; or
3. A Certificate of Occupancy has been issued by the City.

The intent of Subsection 17.64.040.A is to provide certainty regarding the period of validity for a permit or approval granted in compliance with the Zoning Code. It allows for the phasing of construction for projects such that the conditions of approval may establish a different time limit for the expiration of the right to construct within the entitlements.

In addition to providing certainty regarding the validity of a permit, the intent of the Zoning Code was to provide certainty in terms of the impacts of a construction project. If the approvals of a multiple-phased project related to the construction period never expired even though not all buildings were completed, the potential impact on neighboring property owners could be extended over a much longer time period. Additionally, if the construction phase of a permit continued to be entitled even though there was no active building permit, it would not be possible to apply updated changes in the development standards and land use regulations. It was not the intent of the Zoning Code to allow entitlements (or phases of an entitlement) to have an indefinite life.

Section 17.64.080.A addresses when an active entitlement becomes void. It states:

17.64.080 - Discontinuance

- A. Permit shall become void. Any land-use permit granted in compliance with this Zoning Code shall lapse and become void if the exercise of the rights granted by it is discontinued for a continuous period of at least 12 months.

This section of the Zoning Code is more specific and would govern a phased project in which initial building permits have been issued and there are phases that have not yet received a building permit. The applicable section governing the expiration of a permit in a situation when a phased project has been partially "exercised" through partial construction is Subsection 17.64.080.A. Section 17.64.040.A governs an entitlement prior to it receiving a building permit and establishes time frames for when the initial building permit shall be issued.

Therefore, when a project involves the construction of multiple structures over an extended period of time, and the project conditions do not specify a time limit different from the Zoning Code, only the portion of the entitlement applicable to a particular structure is deemed "exercised" with the issuance of the Building Permit for that structure. The remainder of the entitlement related to further construction expires 12 months after all building permits have expired or structures have had final inspections, or a final Certificate of Occupancy has been issued.

Additionally, with a phased project, a building permit can be issued for a subsequent phase, even if the entitlement was approved more than two, or in the case of an approved extension three, years past, if no more than 12 months have elapsed since the Certificate of Occupancy has been issued for the previous phase because the applicant is diligently pursuing the project to completion. However, if more than 12 months have elapsed since the Certificate of Occupancy has been issued or a final inspection has occurred for the previous phase and the entitlement was not extended, then the permit for the next phase cannot be issued a building permit. Once a Certificate of Occupancy has been issued or a final inspection has occurred for all phases of a project, all phases of an entitlement are vested.

EXAMPLE:

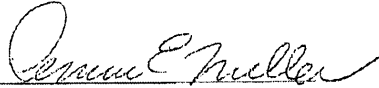
As an example, if a project involved the construction of three buildings and the permit was approved with an effective date of April 1, 2000 and an expiration date of April 1, 2002 and had Building Permits issued as follows:

	Permit issue date	C of O issue date
Building #1	June 15, 2001	September 30, 2003
Building #2	June 30, 2003	October 15, 2004
Building #3	November 12, 2005	January 12, 2007

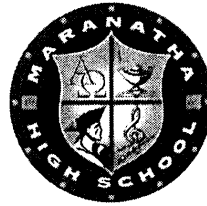
In this case:

1. The Building Permit for Building #1 was issued prior to the expiration of the original land use approval, and was therefore "exercised."
2. The Building Permit for Building #2, although issued after the expiration of the original land use approval, was issued prior to the issuance of the Certificate of Occupancy for Building #1. Therefore, it too was "exercised."

3. The Building Permit for Building #3, was issued after both the expiration of the original land use approval and also more than 12 months after the issuance of the Certificate of Occupancy for Building #2. Therefore, the land use approval was not properly "exercised" and should not be issued without a valid extension or the grant of a new approval. Note that had this Building Permit been issued prior to 12 months after the issuance of the Certificate of Occupancy for Building #2, it too would have been "exercised."



Denver E. Miller
Zoning Administrator



January 13, 2011

Honorable Bill Bogaard, Mayor
Pasadena City Council Members and Planning Commission
City of Pasadena
100 North Garfield Avenue
Pasadena, CA 91109

Re: City Ventures Application for Major Change to Approved Ambassador West Project

Dear Mayor, City Council and Planning Commissioners:

Maranatha High School is one of the adjoining property owners to the Ambassador West Campus. Our relationship to the Ambassador West project extends back to 2004 when the campus was acquired by us and Harvest Rock Church with later acquisitions by Sunrise Senior Living and successor in interest to the Orange Grove parcels, City Ventures.

We understand the complexity of the numerous development issues involved with the Ambassador West project having interests in many of the easements, joint use arrangements, utilities and gardens. We are also fully aware of the extensive community participation in the approval process that has occurred since 2004. In an effort to preserve current project approvals we support an extension of entitlements jointly for City Ventures and Sunrise Senior Living with reasonable conditions attached by the City. This will allow the project to move forward in a concerted and consistent manner for the benefit of all as opposed to each developer moving ahead independently.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Chet Crane", written over a horizontal line.

Chet Crane
Head of School

Cc: Mr. Steve Mermell
Mr. John Poindexter

MARANATHA HIGH SCHOOL
A COLLEGE PREPARATORY CHRISTIAN SCHOOL

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January 19, 2011

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The Planning Commission of the
 City of Pasadena
 City of Pasadena
 175 North Garfield Avenue
 Pasadena, CA 91101

Re: Extension of Ambassador West Project Approval Deadlines

Dear Planning Commissioners,

We represent Sunrise Pasadena CA Senior Living, LLC ("Sunrise") and I write in support of its application for an extension of all project approval deadlines for the Ambassador West Project. Sunrise's application is scheduled to be considered at the Planning Commission's January 26, 2011 public hearing. **In particular, we request that the Planning Commission recommend that the City Council (1) extend until April 2, 2013, the deadline under all project approvals by which construction must commence, and (2) extend until April 2, 2019, the deadline in Condition 18 of the Revised Conditions of Approval by which construction on the Sunrise senior life/care facility must be completed.**

At the December 8, 2010 Planning Commission hearing to consider the application by City Ventures for an extension to certain Ambassador West project approvals, Commissioner Norton questioned whether the City has the authority to grant City Ventures' application. Although addressed to City Ventures, Commissioner Norton's questions regarding the City's authority to grant extensions could also potentially be raised with respect to Sunrise's application. Accordingly, we would like to take the opportunity to provide our explanation of why the City does possess the authority to grant Sunrise's application and to identify what we consider the appropriate standard for the City to apply to the application.

I. Background

The City approved the Ambassador West Project on April 2, 2007. Those approvals include the following:

- Vesting Tentative Tract Map #063103 (already extended by State law to April 2, 2013).
- Tree Removal Permits PLN2006-00223 through 00231

- Conditional Use Permit #4653
- Adjustment Permit PLN2005-00582
- Subdivision Modification PLN2007-00001
- Inclusionary Housing Plans

These project approvals were initially set to expire on April 2, 2009, but were extended for one year pursuant to Pasadena Municipal Code Section 17.64.040(B), which provides the City Planning Director with authority to grant a single one-year extension for approved permits. Subsequently, the City adopted Ordinance No. 7180, which authorized the Planning Director to issue a second one-year extension for certain project approvals under Section 17.64.040(B). The City thereafter extended the Ambassador West project approvals for another year pursuant to the authority granted in Ordinance No. 7180. Under this last extension, all Ambassador West project approvals are due to expire on April 2, 2011, except Vesting Tentative Tract Map #063103, which has already been extended by State law to April 2, 2013. The Planning Director has no further authority to extend the Ambassador West project approvals under Section 17.64.040(B), as modified by Ordinance No. 7180.

II. The City Council May Amend the Ambassador West Project Conditions to Extend the Project Approval Deadlines Pursuant to Section 17.64.050 of the Zoning Code.

Under Section 17.64.040(A)(1) of the City's Zoning Code, a project approval is typically valid for two years. The City can, however, adopt a longer time period in a project's conditions of approval. Zoning Code § 17.64.040(A)(1).

Section 17.64.050 establishes the process by which an applicant can seek revisions to an approved project, including revisions to a project's conditions of approval. Among other procedural requirements, the proposed project changes must be processed "with the same procedures required for the original permit application." Zoning Code § 17.64.050(A)(3). Additionally, before approving proposed project changes, the applicable review authority must make "the findings required for the original approval, and the additional finding that there are changed circumstances sufficient to justify the modification of the original approval." Zoning Code § 17.64.050(A)(4). Finally, an applicant may request changes to a project approval either before or after construction and/or use has commenced. Zoning Code § 17.64.050(A)(5).

Read together, Sections 17.64.040(A) and 17.64.050(A) of the Zoning Code plainly grant the City the authority to amend the Ambassador West Project conditions to extend the project approval deadlines. First, as noted above, the City's Zoning Code specifically authorizes the City to adopt in a project's conditions of approval a time period for the expiration of project approvals beyond the standard two-year period. Second, the Zoning Code permits revisions to a previously approved project's conditions of approval. As a result, the City may amend a project's conditions of approval to accomplish the same result that could have been achieved

at the outset, when the project was initially approved, namely an extended deadline for the expiration of project approvals. Otherwise, the City would find itself in the absurd circumstance of having only one opportunity – at the time of initial project approval – to establish extended project deadlines and would not thereafter have the authority to accomplish that result. The City’s Zoning Code, particularly the most relevant provisions dealing with time limits and project revisions (Sections 17.64.040 & 17.64.050), does not restrict the City to only one bite at the apple on this issue and there is no justification for reading such a limitation into the Zoning Code where it does not explicitly exist.

At the December 8 hearing, Commissioner Norton appeared to suggest that extending the project deadlines through revised project conditions might impermissibly undermine the existing procedure for extending deadlines in Section 17.64.040(B) and Ordinance No. 7180. As explained above, Section 17.64.040(B) authorizes the City’s Planning Director to extend project deadlines by one year, and Ordinance No. 7180 granted the Planning Director authority to extend deadlines under Section 17.64.040(B) for a second year.

The procedure for extending deadlines specified in Section 17.64.040(B), as modified by Ordinance No. 7180, is fully consistent with those provisions authorizing the extension of deadlines through revisions to conditions of approval. Section 17.64.040(B) constitutes an expedited, relatively informal means by which the Planning Director may take action. Because an extension via Section 17.64.040(B) is relatively informal – for example, there is no notice or public hearing required and an unelected City official may approve the action – the City presumably elected to limit such extensions to a single year (or, for a limited time, to two years under Ordinance No. 7180). For other, major changes to projects, including extending project deadlines by additional years, the proposed revision must be approved by original decisionmaker, in this instance the City Council. Such a structure, under which a project applicant such as Sunrise may obtain an initial, limited extension from the Planning Director and must thereafter to return to the City Council for additional extensions, is perfectly sensible.

III. The City Council Must Make the Findings Required By Section 17.64.050(A)(4) Before It May Amend the Ambassador West Project Conditions.

Section 17.64.050(A)(4) of the Zoning Code specifies the findings that the decisionmaker must make before approving project changes, including an extension in project deadlines via revised conditions of approval. In this instance, the City Council must “make the findings required for the original approval, and the additional finding that there are changed circumstances sufficient to justify the modification of the original approval.” There is no explanation of what constitutes “changed circumstances sufficient to justify the modification,” so the determination of what constitutes sufficient changed circumstances lies with the City Council.

There has been some suggestion that the City must also make the finding that the applicant “has good-faith intent to presently commence the proposed project,” which is a finding required before the Planning Director may extend a project approval under Section 17.64.040(B). There is no basis in the Zoning Code for requiring such a finding before granting an extended deadline under Section 17.64.050. That finding is not required in these circumstances, where the City Council considers extending project deadlines by revising conditions of approval. (And even if such a finding were required, Sunrise can make the necessary showing, as discussed further below.)

IV. The City Council Has Ample Basis to Make the Required Findings.

The City Council should have no difficulty making the findings required under Section 17.64.050(A)(4). First, the City Council can make the findings required for the original project approval. As the staff report for the December 8, 2010 hearing on City Ventures’ application for extended deadlines noted, “site conditions have remained essentially the same since the [original project] approval” and the developer “intends to implement the Ambassador West project as approved, and there have not been any major changes to City policies or Zoning Code development standards.” These conclusions are equally true for Sunrise.

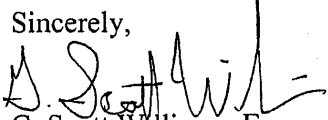
Second, the City Council can easily find that there are “changed circumstances sufficient to justify” the extended project deadlines. The worst economic downturn in this country since the Great Depression, with the attendant disruptions in capital markets and suppressed consumer demand for new real estate products, provides ample justification for a conclusion that Sunrise and its fellow developers of the Ambassador West Project deserve additional time to commence construction before their project approvals expire.

Finally, even if the City Council were to require Sunrise to demonstrate that it has a good-faith intent to proceed with the Project, Sunrise can make that showing. Sunrise continues to undertake numerous efforts to ensure the development of its portion of the Ambassador West Project as originally approved. For example, subsequent to Project approval, Sunrise participated in the creation and recordation of a Site Development Agreement, which ensures that all owners cooperate to complete all Project Conditions of Approval and Mitigation Measures. Additionally, the Site Development Agreement requires the individual landowners to contribute a proportionate share of the cost of planning and design work for various Project conditions and to maintain the Project area. To date, Sunrise has contributed approximately one million dollars for these efforts. Sunrise has also obtained Design Commission Concept Approval of a design for its portion of the Project consistent with the Project approvals and conditions. Finally, Sunrise has actively marketed the project to senior living companies and has required potential buyers to demonstrate an intent to honor the original project design – and has terminated discussions with potential buyers unwilling to do so.

* * * * *

For the reasons set forth above, the City Council has the authority to revise the Ambassador West Project conditions of approval to extend the project deadlines. Moreover, Sunrise has provided the basis for the City Council to make the findings required before it takes such an action.

Sincerely,



G. Scott Williams, Esq.
Seltzer Caplan McMahon Vitek
A Law Corporation

cc: John Poindexter
Emily Stadnicki
Philip Kroskin, Sunrise Senior Living, Inc.