



STAFF REPORT
CITY OF BEVERLY HILLS

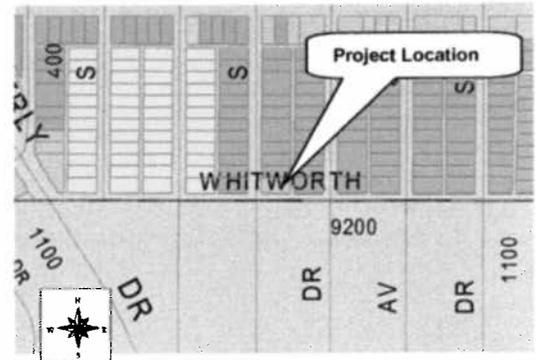
**For the Planning
Commission Meeting of
May 27, 2010**

TO: Planning Commission

FROM: Georgana Millican, Associate Planner

THROUGH: Jonathan Lait, AICP, City Planner

SUBJECT: Time Extension request for a Development Plan Review Permit for a seven-unit condominium project located at **462 South Rexford Drive.**



RECOMMENDATION

It is recommended that the Planning Commission adopt the attached resolution approving a one-year time extension for a Development Plan Review Permit approved for the project at 462 South Rexford Drive.

EXECUTIVE SUMMARY

Murray D. Fischer, applicant, has filed a request for a one year time extension for a Development Plan Review Permit previously approved by the Planning Commission under Resolution No. 1468. The Development Plan Review Permit was approved in conjunction with Vesting Tentative Tract Map No. 64012. Recent state laws have automatically extended the Vesting Tentative Tract Map until June 14, 2012. Approval of the requested time extension would extend the time limit to exercise the Development Plan Review Permit from June 14, 2010 to June 14, 2011.

BACKGROUND and DISCUSSION

The subject project was reviewed by the Planning Commission and approved at its June 14, 2007 meeting, subject to specific conditions of approval. Issues discussed by the Commission, and mitigated through project-specific conditions of approval, included

construction related impacts. As conditioned, the Commission was able to make all the necessary findings to approve the project and its associated entitlements.

Pursuant to Beverly Hills Municipal Code (BHMC) Section 10-3-207, Development Plan Review Permits are valid for an initial period of three years, and can be extended by the Planning Commission for up to seven (7) years beyond the original approval date, if they were approved in conjunction with a Tentative Map. Pursuant to BHMC Section 10-2-206, Tentative Maps are valid for an initial period of two years and can be extended for up to three (3) year beyond the expiration date.

However, in recognition of the difficulty developers have had in obtaining construction financing for entitled projects, two recent state laws have been enacted to automatically extend the life of previously approved Tentative Maps: Senate Bill 1185 and Assembly Bill 333. These automatic extensions, which are described below, do not apply to associated discretionary entitlements, as in this case, the Development Plan Review Permit, and those entitlements may be extended consistent with local ordinance.

Based on the original approval date, the Development Plan Review Permit will expire on June 14, 2010 and the Tentative Parcel Map would have expired on June 14, 2009. To date, no time extensions for the project's entitlements have been granted by the Planning Commission.

SB 1185 provides for an automatic one-year time extension for Tentative Maps if:

- It was approved prior to July 15, 2008;
- It had not expired as of July 15, 2008; and
- It would have otherwise expired prior to January 1, 2011.

AB 333 provides for a two-year time extension for Tentative Maps if:

- It was approved prior to July 15, 2009;
- It had not expired by July 15, 2009; and
- It would have otherwise expired prior to January 1, 2012.

The subject Tentative Parcel Map, based on its original approval date of June 14, 2007 and original expiration date of June 14, 2009, qualifies for the extensions provided for by the recent legislation and therefore is valid until June 14, 2012 and is not a part of this request.

PROJECT DESCRIPTION

The approved project is a four-story, 45-foot tall building, with seven units and twenty parking spaces. Parking for the project is provided with 17 spaces located in a one-level subterranean garage and three spaces at grade with access to the garage provided from the alley via a twenty-foot (20') wide driveway. The outdoor living space complies with the Municipal Code requirements.

ANALYSIS

The Planning Commission approved this seven-unit condominium project on June 14, 2007. According to Beverly Hills Municipal Code Section 10-3-207 the exercise of rights granted with the Development Plan Review approval shall be commenced within three years after adoption of the resolution. Therefore, this entitlement will expire on June 14, 2010 without the issuance of a one-year time extension. The applicant timely requested the time extension prior to the expiration of the entitlements. The requested extension would extend the time limit to exercise the Development Plan Review for a period of one year, to June 14, 2011.

The existing improvements on the subject site remain in place and have not been demolished. The project has reportedly had the construction/structural drawings completed; however, the property owner has had recent health issues and difficulty in obtaining construction financing which is the reason for the time extension request (see attached letter).

Beverly Hills Municipal Code Section 10-3-207 states that such extension may be granted after a duly noticed public hearing held pursuant to the same procedures applicable to the approval of the original application, if the reviewing authority determines that conditions and regulations affecting development in the City have not changed in a manner that would warrant reconsideration of the findings and decision made at the time of original approval. Staff has concluded that conditions and regulations affecting development in the City have not changed in a manner that would warrant reconsideration of the original decision to approve the project. However, staff is considering the fact that the City has adopted a green building ordinance that would apply to the construction of this project if it were submitted for approval today. This project has not been submitted to the City for plan check, thus there is an opportunity for this project to incorporate green building features without substantial redesign. Therefore, staff directed the applicant to review the City's green building standards and incorporate as many green building features as feasible into the project. The applicant has not submitted a list pertaining to the green building features, however since the Commission has incorporated certain green features as conditions of approval for recent time extension requests, a list of green building standards (Attachment A) are recommended to be incorporated in to the final project and the applicant was informed about these conditions.

Staff recommends that the one-year time extension request for the Development Plan Review Permit be granted. If the time extension is not granted, the applicant would be required to file new applications.

PUBLIC NOTICE

Notice of the proposed project and public hearing was mailed on May 17, 2010 to all property owners and residential tenants within a 300-foot radius of the property, and all single-family zoned properties within 500 feet from the exterior boundaries of the property. To date, staff has not received any comments in regard to the time extension request.

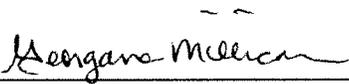
ENVIRONMENTAL DETERMINATION

This project was previously assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City, and a Negative Declaration was adopted. There have been no changes to the project and no substantial changes to the environment that would cause the project to significantly impact the environment. Therefore, there is no substantial evidence that the approval of the requested extension may have any significant environmental impact. The original Negative Declaration continues to represent the independent judgment of the City, and no additional environmental review is required under CEQA.

ALTERNATIVE ACTIONS

In addition to the recommended action the Planning Commission could also consider the following with respect to the project:

1. Continue this matter for specific reasons;
2. Articulate revised findings and/or conditions to Approve or Deny the subject application



GEORGANA MILLICAN,
Associate Planner

Attachments:

1. Green Building Features
2. Draft Resolution
3. Time Extension Request Letter
4. June 14, 2007 Planning Commission Resolution No. 1468

ATTACHMENT 1

Green Building Features

Sustainable Sites:

- Construction Activity Pollution Prevention
- Alternative Transportation, Public Transportation Access
- Alternative Transportation for bicycle storage and changing rooms
- Reserve certain percentage of parking stalls for low emitting and fuel efficient vehicles
- Stormwater management plan to recycle hardscape and overflow roof drainage through onsite planters, reducing peak discharge rates, and promoting infiltration of stormwater runoff
- Light Pollution Reduction

Water efficiency

- Water Efficient Landscaping
- Water Use Reduction Plan to use water efficient products

Energy & Atmosphere

- Compliance with the Title 24, building energy expenditure, plus 15% requirement
- Compliance with the Fundamental Commissioning of the Building Energy System
- Minimum Energy Performance
- Fundamental Refrigerant Management
- Optimize Energy Performance

Materials and Resources

- Storage and collection of recyclables

- Use of regional and local materials and products
- Certified Wood

Indoor Environmental Quality

- Minimum Indoor Air Quality
- Increased Ventilation
- Environmental, Tobacco Smoke Control
- Usage of low emitting for all interior finishes
- Controllability of lighting and thermal system

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS APPROVING A ONE-YEAR TIME EXTENSION FOR A DEVELOPMENT PLAN REVIEW PERMIT FOR A SEVEN-UNIT CONDOMINIUM PROJECT LOCATED AT 462 SOUTH REXFORD DRIVE.

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

Section 1. Vesting Tentative Tract Map No. 64012 and its associated Development Plan Review Permit which proposes a seven-unit condominium project (the Project) were originally approved by Resolution No. 1468, adopted on June 14, 2007.

Pursuant to Beverly Hills Municipal Code (BHMC) Section 10-3-207, Development Plan Review Permits are valid for an initial period of three years, and can be extended by the Planning Commission for up to seven (7) years beyond the original approval date, if they were approved in conjunction with a Tentative Map. Pursuant to BHMC Section 10-2-206, Tentative Maps are valid for an initial period of two years and can be extended for up to three (3) year beyond the expiration date.

Two recent state laws have been enacted to automatically extend the life of previously approved Tentative Maps: Senate Bill 1185 and Assembly Bill 333. These automatic extensions do not apply to associated discretionary entitlements, as in this case, the Development Plan Review Permit, and those entitlements may be extended consistent with local ordinance.

Based on the original approval date, the Development Plan Review Permit will expire on June 14, 2010 and the Vesting Tentative Tract Map would have expired on June 14, 2009. To date, no time extensions for the project's entitlements have been granted by the Planning Commission.

The subject Vesting Tentative Tract Map, based on its original approval date of June 14, 2007 and original expiration date of June 14, 2009, qualifies for the extensions provided for by the recent legislation and therefore is valid until June 14, 2012 and not a part of this request.

The time extension does not amend the conditions of approval or make other substantive revisions to Resolution No. 1468. The entitlements were requested for the purposes of developing a seven-unit condominium project with a height of four stories/45 feet and twenty parking spaces. The parking would be provided with 17 parking spaces in a subterranean parking garage accessed from the rear alley and three parking spaces at grade. Currently, no construction has begun at the subject site, and the existing buildings have not been demolished. The Planning Commission's original decision to approve the Project was subject to numerous conditions of approval to ensure that project and construction-related impacts would be appropriately mitigated.

Section 2. Pursuant to Sections 10-3-207 of the Beverly Hills Municipal Code, the Development Plan Review Permit rights granted under Planning Commission Resolution No.1468 expire if not exercised within thirty-six (36) months of the date of adoption. Therefore, the rights granted under Resolution No. 1468 expire at 11:59 p.m. on June 14, 2010, unless extended by the Planning Commission. Section 10-3-207 of the Beverly Hills Municipal Code allows the Planning Commission to extend the approval of the Development Plan Review

Permit for up to two, one-year time extensions, for a total of five years from the date of the initial entitlement approval.

The application for time extension was timely filed prior to the expiration date of June 14, 2010.

Section 3. This project was previously assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City, and a Negative Declaration was adopted. There have been no changes to the project and no substantial changes to the environment that would cause the project to significantly impact the environment. Therefore, there is no substantial evidence that the approval of the requested extension may have any significant environmental impact. The original Negative Declaration continues to represent the independent judgment of the City, and no additional environmental review is required under CEQA.

Section 4. On May 27, 2010, the Planning Commission held a duly noticed public hearing to consider the request for an extension of the Development Plan Review Permit. Evidence, both oral and written, was presented at said hearing.

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

1. There have been no changes to the Project or any substantial change to the surrounding environment since the initial Project approval.

2. The rights granted under Resolution No. 1468 shall be extended for one year, in order to provide the applicant with additional time to complete the final parcel map process and develop the Project.

3. Except as specifically modified by this Resolution, all conditions of Resolution No. 1468 shall remain in full force and effect.

Section 6. Based on the foregoing, the Planning Commission hereby extends the Development Plan Review Permit granted under Resolution 1468 through and including June 14, 2011, subject to all conditions set forth in Resolution No. 1468, and the following project-specific conditions:

1. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

2. This resolution granting the requested time extension shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Project **shall be null and void and of no further effect**. Notwithstanding the foregoing, the Director of Community Development may, upon a

request by the Applicant, grant a waiver from the 60 day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Project.

3. The Applicant shall incorporate the following green building elements to the final Project:

Sustainable Sites

- Construction Activity pollution control plan is part of the SUSMP plan submitted to the City.
- The project will be equipped with storage capable of securing bicycles for over 20% of the building occupants.
- 5% of the parking stalls shall be reserved as preferred parking for occupants with low emitting and fuel efficient vehicles.
- Stormwater management plan will cycle hardscape and overflow roof drainage through onsite planters, reducing peak discharge rates, and promoting infiltration of stormwater runoff.

Water efficiency

- Plant species selected for landscaping are indigenous to the area and use water from site drainage for irrigation.

Energy & Atmosphere

- Building energy expenditure meets Title 24 + 15%

Materials and Resources

- Construction waste will be minimized during construction
- Local, regional materials and products will be used in the construction of the project when feasible

Indoor Environmental Quality

- All residential units are provided with operable windows and doors to facilitate natural ventilation
- Low VOC emitting materials will be specified for all interior finishes

Section 7. If this Resolution is invalidated for any reason, all rights granted under Resolution No. 1468 shall lapse and expire and be of no further effect.

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

Adopted:

Lili Bosse
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

Jonathan Lait, AICP *JL*
City Planner

March 17, 2010

VIA FACSIMILE (310) 858-5966 & via email srojemann@beverlyhills.org
Shena Rojemann
City Planner
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

Re: Development Plan Review Permit / R-4 Permit

Dear Shena:

Please be advised that this law firm represents 462 S. Rexford Drive, LP, the property owner of the property located at 462 S. Rexford Drive.

On or about June 14, 2007, the Beverly Hills Planning Commission issued Resolution No. 1468 adopting a negative declaration and conditionally approving the Vesting Tentative Tract Map No. 64012 and a Development Plan Review Permit to allow construction of the 7 unit residential condominium structure located at 462 S. Rexford Drive.

The purpose of this letter is to request an extension of the Development Plan Review Permit and the R-4 Permit. Pursuant to your recent email, it will not be necessary to file for an extension of the vested tentative tract map as it will not expire until June 2012.

My client within the last 3 years has been working on finalizing architectural drawings, processing the tentative tract map and seeking construction financing and permanent financing in furtherance of going forward with the development of this project.

Unfortunately, due to the resistance of the lending institutions to issue construction loans without permanent take out loans, it has become extremely difficult in order to obtain a construction loan on this property.

Further my client, Mr. Robert Ives suffered a severe stroke and has been incapacitated and as such he has not been able to devote all the hours that are needed in order to complete this project.

Hopefully, the commission will recognize that it is very difficult not only to obtain construction financing due to the current economic conditions, the fact that the market for new condominiums is still quite soft and it has been difficult to obtain comparables for the appraisal process. Further, due to Mr. Ives' incapacity, I would hope that the Commission would have sympathy in granting him this additional extension for the maximum time so that he can regain his strength and be able to pursue the completion of this project.

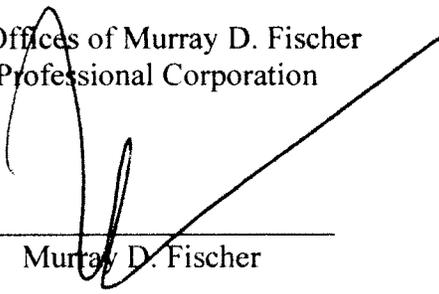
March 17, 2010

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Therefore, I request on behalf of my client that you allow this to go forward and honor his request for an extension. This extension request is the first extension that he has requested from your department.

Very truly yours,

Law Offices of Murray D. Fischer
A Professional Corporation



Murray D. Fischer

MDF/cmd

cc: Peter Noonan
Robert Ives

RESOLUTION NO. 1468

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS ADOPTING A NEGATIVE DECLARATION AND CONDITIONALLY APPROVING VESTING TENTATIVE TRACT MAP NO. 64012 AND A DEVELOPMENT PLAN REVIEW PERMIT TO ALLOW CONSTRUCTION OF A SEVEN-UNIT RESIDENTIAL CONDOMINIUM STRUCTURE AT PROPERTY LOCATED AT 462 SOUTH REXFORD DRIVE

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

Section 1. Robert Ives, 462 South Rexford Drive, L.P., property owner (hereinafter referred to as the "Applicant"), has submitted an application for approval of Vesting Tentative Tract Map No. 64012 and a Development Plan Review to allow construction of a new seven-unit, 14,003 square foot, four-story, 45-foot high condominium structure on a single-lot site for property located at 462 South Rexford Drive (the "Project"). The Project will provide the Code required parking of 20 parking spaces. 17 parking spaces shall be in a single-level subterranean garage accessed from the rear alley and 3 parking spaces shall be at grade.

Section 2. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* ("CEQA")), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City's Local CEQA Guidelines. The City prepared an initial study and, based on the information contained in the initial study, determined that there was no substantial

evidence that approval of the Project may have significant environmental impact. Accordingly, the City prepared a negative declaration pursuant to Section 15070 of the State CEQA Guidelines. Pursuant to Section 15074(b) of said Guidelines, the Planning Commission independently reviewed and considered the contents of the initial study and the negative declaration prior to deciding whether to approve the Project. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project will have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 3. A hearing was noticed for April 12, 2007, and that hearing was continued to April 25, 2007 due to cancellation of the April 12, 2007 meeting because of a fire in the City's hillside areas. On April 25, 2007, May 24, 2007 and June 14, 2007 the Planning Commission held a duly noticed public hearing to consider the Project. Evidence, both written and oral, was presented at said hearing. Prior to conducting the public hearing, the Planning Commission visited the Project site.

Section 4. The Project site is a single-lot site located on the northeast corner of the intersection of South Rexford Drive and Whitworth Drive in an area designated as medium to high-density multi-family residential (R-4) zone. The site is currently developed with a two-story

apartment building built in 1948 and includes on-grade parking along the rear yard for a total of six spaces. The existing apartment building on the site would be demolished to accommodate the new condominium structure. There are a variety of densities, heights, building ages and architectural styles along this portion of South Rexford Drive.

The proposed Project is a four-story, seven-unit, 45-foot high condominium. The Project includes one level of basement garage with space for 17 vehicles and 3 parking spaces at grade.

The Project provides more than the 1,400 square feet of outdoor living area as required by the City's municipal code. The total outdoor area being provided for this Project is 2,930 square feet in the form of private patios, balconies, and roof top deck area.

Modulation. Beverly Hills Municipal Code Section 10-3-2806(c) requires that modulation for lots exceeding 50 feet in width to modulate portions of the front façade of the building at least 10 feet from the front setback line, in addition to the front setback otherwise required by Code. The Applicant has integrated all of the required modulation and the additional 10-foot setback on the top floor, as the fourth floor is set back between 10 and 14 feet from the front setback line. Moreover, the dual color scheme presented to the Commission and the representation of the Applicant to provide mature landscaping reduces the mass and scale of the Project. Furthermore, as conditioned, the Applicant will be required to maintain the landscaping as depicted on the approved plans at all times. Accordingly, the Project as presented to the Commission meets the Code requirements and will be consistent with the adopted General Plan of the City which designates this area as a medium-density multi-family residential area.

Landscape Plan. The preliminary landscaping plan, along with the Tuscan design of the building, will be forwarded to the Architectural Commission for its review and approval.

Traffic. The proposed Project is expected to generate 41 vehicle trips per day with a morning peak of four trips and evening peak of four trips. The Institute of Transportation Engineers (ITE) Trip Generation, 7th Edition, rates were used to estimate the trip generation counts for this Project. The Project is expected to generate about one additional trip per day. The study indicates that the proposed development will have a negligible traffic impact upon existing roadways based on the low trip generation forecast as noted on the traffic report.

Site Access & Circulation. The proposed Project will provide 20 parking spaces, 17 of which are located in a one-level garage and 3 are at grade. Access to the parking garage will be via a 20-foot wide driveway accessed from the alley.

Section 5. Pursuant to the requirements set forth in Section 66474 of the California Government Code, in reviewing the application for Vesting Tentative Tract Map No. 64012, the Planning Commission considered the following issues:

- 1) Whether the proposed vesting tentative tract map and the design or improvement of the proposed subdivision are consistent with the General Plan of the City;
- 2) Whether the site is physically suitable for the type of development and the proposed density;
- 3) Whether the design of the subdivision and the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;

4) Whether the design of the subdivision or type of improvements is likely to cause serious public health problems and whether the design of the subdivision or the type of improvements will conflict with any public easements; and

5) Whether the discharge of waste water from the proposed subdivision into the existing sewer systems will result in a violation of existing requirements prescribed by the California Water Quality Control Board.

Section 6. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission hereby finds as follows with respect to Vesting Tentative Tract Map No. 64012:

6.1 As conditioned, the proposed Project and its design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "multi-family residential." The proposed Project will consist of a seven-unit residential condominium structure, which is permitted under the General Plan land-use designation for the Project site. Thus the proposed Project is found to be consistent with the City's General Plan.

6.2 As conditioned, the site is physically suitable for the type of development and the proposed density. The site is currently developed with a six-unit, two-story apartment building. Under the current zoning designation, the Project site can be developed with a maximum density of seven units, and the infrastructure to serve the proposed seven-unit residential condominium

structure is adequate. The site has no unusual seismic or other hazards. Therefore, the site is physically suitable for the type of development and the proposed density.

6.3 As conditioned, the proposed Project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife because there are no significant fish or wildlife resources or public health issues on the Project site, and utilities exist that will adequately serve the demands of the Project. This finding is further supported by the Negative Declaration documentation.

6.4 The design of the subdivision and the type of improvements will not cause serious public health problems, and will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. The Project design has been preliminarily reviewed by the Public Works Department and the Building and Safety Division for Code compliance. In addition, the Project will not encroach into any public easement areas. Therefore, the design of the subdivision or type of improvements is not likely to cause serious public health problems and that the design of the subdivision or the type of improvements will not conflict with any public easement.

6.5 The Project will be required to comply with all applicable requirements of the City's Storm Water and Urban Runoff Pollution Control Ordinance and the City's current National Pollutant Discharge Elimination System ("NPDES") permit and, therefore, implementation of the Project will not result in a violation of existing requirements prescribed by the California Regional Water Quality Board. Implementation of the Project will not significantly increase the amount of impermeable land or result in substantial changes in absorption rates that would increase the amount of stormwater runoff from the Project site. Further, any discharge of waste from the proposed

subdivision into the existing sewer system will would be required to adhere to the requirements prescribed by the California Regional Water Quality Board. Accordingly, approval of the Project will not result in a violation of existing requirements prescribed by the California Regional Water Quality Board.

Section 7. In accordance with the provisions of Beverly Hills Municipal Code Section 10-3-3104, in reviewing the application for a Development Plan Review, the Planning Commission considered the following issues:

- 1) Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;
- 2) Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;
- 3) Whether the nature, configuration, location, density, height, and manner of operation of the Project will significantly and adversely interfere with the use and enjoyment of other residential properties in the vicinity of the subject property.
- 4) Whether the proposed plan will create any significantly adverse traffic impact, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards; and
- 5) Whether the proposed plan will be detrimental to the public health, safety, or general welfare.

Section 8. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission hereby finds as follows with respect to the Development Plan Review:

8.1 As conditioned, the proposed Project design and improvements are consistent with the General Plan of the City. The proposed Project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "multi-family residential." The proposed Project meets Code requirements, particularly regarding use, height, density, and parking and is consistent with the adopted General Plan of the City which designates this as a high-density, multiple-family residential area.

8.2 As conditioned, the proposed Project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The site currently is developed with a two-story, six-unit apartment building. As proposed, the building meets all the development standards pursuant to Section 10-3.2800 of the Beverly Hills Municipal Code. The Project exceeds the required modulation facing on Rexford Drive, and the Commission finds that the integration of the required modulation and additional 10-foot setback of the top floor meets the code requirements for this property. There are a variety of buildings in this block of Rexford Drive which were built under different zoning standards and restrictions and consequently do not display the modulation required the current Zoning Code. The Applicant has incorporated a "Tuscan" architectural design on the building and as such the building is subject to review and approval by the Architectural Commission who is vested in reviewing projects and requiring that the proposed design be harmonious to the development of the area.

8.3 As conditioned, the proposed Project will not significantly and adversely interfere with the use and enjoyment of other residential properties in the vicinity of the subject property. As noted above, the Project complies with the current Code requirements regarding density, height, and parking. The proposed scale and massing are consistent with the scale and massing of the development in this area and the standards applicable to future developments. The proposed four-story structure will cast shadows to a greater degree than does the existing two-story structure; however, these incrementally greater impacts are not found to be significant in light of the shadows from the existing structure, and because the potential impacts from these shadows will not occur year round. Further, the design of the northern elevation of the building with the open area and mature landscaping between the façade and the property line ensures that the Project will not interfere with the use and enjoyment of other residential properties in the vicinity. Last, the dual color scheme presented to the Commission and the representation of the Applicant to provide mature landscaping assists to reduce the mass and scale of the Project.

8.4 As conditioned, the proposed Project will not create any significant adverse traffic impacts nor vehicular or pedestrian safety or circulation problems. A traffic study has been prepared by Meyer, Mohaddes Associates to assess the potential impacts of the proposed development of seven-unit condominium project. Based on the report, the proposal will have a negligible traffic impact upon the existing roadways and the residential streets. Therefore, the Project will not generate adverse traffic impacts, traffic hazards, pedestrian/vehicle conflicts, or pedestrian safety hazards. In addition, the Applicant has revised the layout of the garage to improve accessibility to parking spaces. Furthermore, in order to ensure that local traffic and parking are not impacted during construction, the Applicant will be required to prepare and implement a

construction management plan that includes a construction parking and hauling plan. Said plan will be reviewed and approved by the Director of Public Works & Transportation or his designee to determine the amount, appropriate routes, and time of day of heavy hauling truck traffic necessary for demolition and deliveries to the subject site. Therefore, the Project will have no adverse traffic or parking related impacts on the neighborhood.

8.5 As conditioned, the proposed Project will not be detrimental to the public health, safety, or general welfare. The Project, as conditioned, will be constructed in accordance with the City's Building Code standards, and adequate open space living area has been required. As conditioned by this Resolution and for the reasons discussed in the foregoing paragraphs, the proposed Project will not be detrimental to the public health, safety, or general welfare.

Section 9. Based upon the foregoing, the Planning Commission hereby adopts the Negative Declaration, approves Vesting Tentative Tract Map No. 64012 and a Development Plan Review for the Project, subject to the following conditions:

1. Except as modified by the conditions set forth hereafter, the Project shall be developed in substantial compliance with the plans submitted to and reviewed by the Planning Commission at its meeting on June 14, 2007.
2. The Applicant shall protect and maintain all existing street trees adjacent to the subject site during construction of the proposed subdivision. No street trees shall be removed or relocated unless approval from the Department of Recreation and Parks is obtained.

3. The Applicant shall comply with the applicable conditions and permits from the Public Works/Engineering Department/Recreation and Parks Department. The list of standard conditions is attached hereto as Exhibit A, and is incorporated herein by reference.
4. The Project shall comply with all applicable conditions of approval that may be imposed by the Fire Department through the plan check process.
5. The Project shall be subject to review and approval by the Architectural Commission prior to issuance of building permits.
6. The color scheme and variation of colors as proposed on the Project plans shall be maintained and shall not be substantially modified except upon review and approval by the City.
7. The landscaping proposed shall be mature and of substantial size as proposed by the Project plans, and as approved by the Community Development Director. The landscaping shall be maintained as approved by the Architectural Commission at all times. Any substantial changes to the landscaping shall require approval by the City.
8. The Applicant shall prepare Covenants, Conditions and Restrictions ("CC&Rs") to be recorded in conjunction with the final subdivision map, subject to review and approval by the Community Development Department and the City Attorney. The CC&Rs shall include a provision establishing that the City shall, after making due demand and giving reasonable notice, have the right of access to the community, including all buildings and structures thereon, for the purpose of preserving the public health, safety, and welfare, and for the purpose of ensuring that all owners and occupants adhere to the provisions of the CC&Rs.

9. Pursuant to Section 10-3-2816 the Applicant is required to provide twenty parking spaces as rooms capable of being used as a bedroom are deemed to be a bedroom for the purposes of the parking requirements set forth therein. Accordingly, the Applicant shall provide 17 parking spaces in a single-level subterranean garage accessed from the rear alley and 3 parking spaces shall be at grade. The plans shall clearly depict that the tandem spaces shall be assigned to the unit immediately adjacent to those spaces (Unit #102). The other spaces shall be assigned to units on the ground floor.
10. The parking spaces to be provided (at grade or garage) shall be a minimum of 36' in length and 20' in width.

STANDARD CONDITIONS

11. The Applicant shall submit a Construction Management Plan to the Department of Community Development for review and approval prior to issuance of a building permit. The Construction Management Plan shall include, at a minimum, the following:
 - a. Written information about the construction parking arrangements and hauling activities at different stages of construction to be reviewed and approved by the Engineering Division of Public Works and the Building and Safety Department. On-street parking shall be prohibited at all times. The plan shall indicate arrangements for construction parking at a nearby site where the workers can be transported to and from the Project site when sufficient parking is not available on the site.
 - b. Information regarding the anticipated number of workers, the location of parking with respect to schedules during the construction period, the arrangement of

deliveries, hauling activities, the length of time of operation, designation of construction staging area and other pertaining information regarding construction related traffic.

- c. The proposed demolition/construction staging for this Project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries, etc., to the subject site.
12. In addition to the conditions set forth in this Resolution, the Vesting Tentative Tract Map shall comply with all conditions required in conjunction with the plan check process by the City's various departments, including but not limited to the conditions, if any, imposed by the Departments of Public Works, Engineering, Building and Safety, Fire, and Police.
13. During construction, the Applicant shall install a minimum 12-foot construction fence to reduce noise and dust impacts on neighboring properties.
14. The Applicant shall maintain the site in an orderly condition prior to commencement of and during construction, including but not limited to, maintenance of the orderly appearance of existing structures and landscaping on the site, dust suppression for areas cleared by demolition, maintenance of safety barriers and adjacent public sidewalks, and provision of a contact person directly accessible to the public by telephone in the event that the public has any concerns regarding the maintenance of the site. The name and telephone number of the contact person shall be transmitted to the Director of Community Development and the Building Official. In addition, the Applicant shall, throughout project construction, post the name and telephone number of the contact person on the site in a location readily visible to the general public and approved by the Director of Community Development. Said signs

shall also include the name and number for a City contact from the Community Development Department. The Applicant's representative's telephone number provided shall be manned during construction hours.

15. The Applicant shall secure all necessary permits from the Public Works Department and the Engineering Division prior to commencement of any demolition or Project related work.
16. Approval of this Project is subject to any and all other discretionary approvals required by the City for the Project.
17. Within three working days after approval of this Resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$50.00 for a documentary handling fee in connection with Fish and Game Code requirements in addition to the Department of Fish and Game filing fee imposed pursuant to Fish and Game Code Section 711.4
18. A cash deposit of \$10,000 shall be deposited with the City to ensure compliance with the conditions of this Resolution regarding construction activities. Such deposit shall be returned to Applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within 10 days of the notice; and (c) issue a stop work notice until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the Applicant timely requests a hearing,

said deposit will not be forfeited until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice, and the deposit of an additional \$10,000, pursuant to the procedure set forth herein above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited.

The requirements of this condition are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this Resolution or the Beverly Hills Municipal Code.

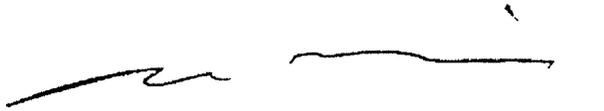
19. The conditions set forth in this Resolution shall run with the land and shall remain in force for the duration of the life of the Project.
20. This Resolution approving Vesting Tentative tract Map No. 64012 and issuing a Development Plan Review (collectively the "Approvals") shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this Resolution. The covenant shall include a copy of this Resolution as an exhibit.

The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this Resolution approving the

Project shall be null and void and of no further effect. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the Applicant, grant a waiver from the 60-day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state, or local law that would affect the Project.

Section 10. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this Resolution, and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: JUNE 14, 2007



Noah Furie
Chair of the Planning Commission
of the City of Beverly Hills, California

ATTEST:



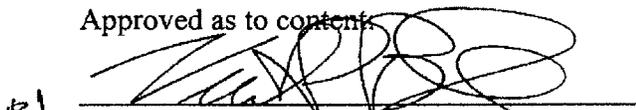
Secretary

Approved as to form:

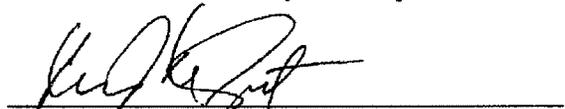


David M. Snow
Assistant City Attorney

Approved as to content:



Vincent P. Bertoni, AICP
Director of Community Development



David D. Gustavson
Director of Public Works and Transportation

EXHIBIT A

**PUBLIC WORKS/ENGINEERING
STANDARD CONDITIONS LIST**

CITY OF BEVERLY HILLS
STANDARD CONDITIONS LIST

ENGINEERING, UTILITIES AND RECREATION & PARKS:

1. The applicant shall remove and replace all defective sidewalk surrounding the existing and proposed buildings.
2. The applicant shall remove and replace all defective curb and gutter surrounding the existing and proposed buildings.
3. The applicant shall comply with all applicable statutes, ordinances and regulations concerning the conversion of residential rental units into condominiums, including, but not limited to, the requirement that the applicant pay the City of Beverly Hills the condominium conversion tax of \$5,638.80*, if a certificate of occupancy is issued prior to approval of the final subdivision map by the City Council. (*The tax figure is adjusted annually.)
4. The applicant shall remove all unused landings and driveway approaches. These parkway areas, if any, shall be landscaped and maintained by the adjacent property owner. This landscape material cannot exceed six to eight inches in height and cannot be planted against the street trees. Care shall be taken to not damage or remove the tree existing tree roots within the parkway area. Remove and replace all defective alley and driveway approaches surrounding the existing and proposed buildings.
5. The applicant shall protect all existing street trees adjacent to the subject site during construction of the proposed project. Every effort shall be made to retain mature street trees. No street trees, including those street trees designated on the preliminary plans, shall be removed and/or relocated unless written approval from the Recreation and Parks Department and the City Engineer is obtained. (See attached Trees and Construction document.)

Removal and/or replacement of any street trees shall not commence until the applicant has provided the City with an improvement security to ensure the establishment of any relocated or replaced street trees. The security amount will be determined by the Director of Recreation and Parks, and shall be in a form approved by the City Engineer and the City Attorney.

6. The applicant shall provide that all roof and/or surface drains discharge to the street. All curb drains installed shall be angled at 45 degrees to the curb face in the direction of the normal street drainage flow. The applicant shall provide that all groundwater discharges to a storm

Standard Conditions List

- drain. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Connection to a storm drain shall be accomplished in the manner approved by the City Engineer and the Los Angeles County Department of Public Works. No concentrated discharges onto the alley surfaces will be permitted.
7. The applicant shall provide for all utility facilities, including electrical transformers required for service to the proposed structure(s), to be installed on the subject site. No such installations will be allowed in any City right-of-way.
 8. The applicant shall underground, if necessary, the utilities in adjacent streets and alleys per requirements of the Utility Company and the City.
 9. The applicant shall make connection to the City's sanitary sewer system through the existing connections available to the subject site unless otherwise approved by the City Engineer and shall pay the applicable sewer connection fee.
 10. The applicant shall make connection to the City's water system through the existing water service connection unless otherwise approved by the City Engineer. The size, type and location of the water service meter installation will also require approval from the City Engineer.
 11. The applicant shall provide to the Engineering Office the proposed demolition/construction staging for this project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries, etc., to the subject site.
 12. The applicant shall obtain the appropriate permits from the Civil Engineering Department for the placement of construction canopies, fences, etc., and construction of any improvements in the public right-of-way, and for use of the public right-of-way for staging and/or hauling certain equipment and materials related to the project.
 13. The applicant shall remove and reconstruct any existing improvements in the public right-of-way damaged during construction operations performed under any permits issued by the City.
 14. During construction all items in the Erosion, Sediment, Chemical and Waste Control section of the general construction notes shall be followed.
 15. Condensate from HVAC and refrigeration equipment shall drain to the sanitary sewer, not curb drains.

Standard Conditions List

16. Water discharged from a loading dock area must go through an interceptor/clarifier prior to discharging to the storm drain system. A loading dock is not to be confused with a loading zone or designated parking space for loading and unloading.
17. Organic residuals from daily operations and water used to wash trash rooms cannot be discharged to the alley. Examples are grocery stores, mini markets and food services.
18. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Examples of ground water discharges are; rising ground water and garage sumps.
19. Storm water runoff from automobiles going into a parking garage shall be discharged through a clarifier before discharging into the storm drain system. In-lieu of discharging runoff through a clarifier, parking lots can be cleaned every two weeks with emphasis on removing grease and oil residuals which drip from vehicles. Maintain records of cleaning activities for verification by a City inspector.
20. After completion of architectural review of a new or modified commercial structure, and prior to issuance of the certificate of occupancy, the applicant is required to comply with the Public Art Ordinance. An application is required to be submitted to the Fine Art Commission for review and approval of any proposed art piece or, as an alternative, the applicant may choose to pay an in-lieu art fee.

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF BEVERLY HILLS)

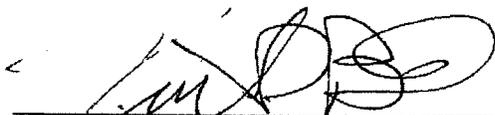
I, VINCENT P. BERTONI, Secretary of the Planning Commission and Director of Community Development of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1468 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on June 14, 2007, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Marks, Vice Chair Reims, and Chair Furie.

NOES: None.

ABSTAIN: Commissioners Bosse and Cole.

ABSENT: None.



VINCENT P. BERTONI, AICP
Secretary of the Planning Commission/
Director of Community Development
City of Beverly Hills, California