



Planning Commission Report

Meeting Date: October 28, 2010

Subject: **450-460 North Palm Drive**
Time extension request for Development Plan Review and R-4 Permit for a thirty-five unit residential condominium in two, five-story buildings.
PROJECT APPLICANT: David Hudson of Etco Homes - Owner and Applicant

Recommendation: That the Planning Commission:

1. Conduct a public hearing and receive testimony on the project; and
2. Adopt the attached resolution conditionally approving a one-year time extension.

REPORT SUMMARY

The applicant requests approval of a one-year time extension for a Development Plan Review Permit and R-4 Permit associated with a 35-unit condominium project. This is the third extension request since the project was originally approved by the Planning Commission in 2005. The Planning Commission may grant the request for extension if certain findings are met. If approved, the entitlements would be extended to October 26, 2011. A condition requiring compliance with certain green building standards is proposed.

Attachment(s):

- [Staff Recommended Findings and Conditions of Approval](#)
- [Draft Planning Commission Resolution](#)
- [Planning Commission Resolution No. 1400](#)
- [Public Notice](#)
- [Letter from Applicant Requesting Extension](#)
- [Table - Zoning Compliance](#)

Report Author and Contact Information:

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BACKGROUND

File Date	9/22/2010
Application Complete	10/15/2010
Subdivision Deadline	N/A
CEQA Deadline	60 days from CEQA Determination
Permit Streamlining	12/13/2010 without extension request from applicant
Applicant(s)	Etco Homes
Owner(s)	Etco Homes
Representative(s)	David Hudson
Prior Project Previews	None
Prior PC Action	Resolution 1400 (<u>Attachment C</u>) approving original project on October 26, 2005
Prior Council Action	None

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	450-460 North Palm Drive
Legal Description	Tract 53521, Lot 1
Zoning District	R-4 Multiple Residential Zone
General Plan	High Density Residential
Existing Land Use(s)	Vacant
Lot Dimensions & Area	203.36 (front) x 150.05 (south side) x 326.54 (rear) x 194.10 (north side): Trapezoidal in shape with an area of 39,875 square feet
Year Built	Vacant - N/A
Historic Resource	Vacant N/A
Protected Trees/Grove	Vacant N/A

Adjacent Zoning and Land Uses

North	T-1 Transportation Zone (vacant) and R-1.X (single-family residential)
South	R-4 Multiple Residential Zone
East	R-4 Multiple Residential Zone
West	R-4 Multiple Residential Zone

Circulation and Parking

Adjacent Street(s)	North Palm Drive and Civic Center Drive
Adjacent Alleys	Two-way alley at rear (east side) of property
Parkways & Sidewalks	16' parkway/sidewalk along Palm, 12.5' parkway/sidewalk along Civic Center
Parking Restrictions	2 hour parking 8AM - 6PM without a permit
Nearest Intersection	Palm and Civic Center
Circulation Element	Residential street

Neighborhood Character

The existing environment surrounding the project site consists of condominium and apartment buildings that vary in size. Buildings range in size from two stories to eight stories, with the most predominant building height being five stories, consistent with the proposed project. Photos of the area are provided below.



PROJECT DESCRIPTION

The applicant requests a time extension of the Development Plan Review Permit and R-4 Permit issued pursuant to Planning Commission Resolution No. 1400. Pursuant to Beverly Hills Municipal Code (BHMC) Section 10-3-207, development entitlements (the Development Plan Review Permit and R-4 Permit in this case) 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. The project was approved in conjunction with a Tentative Map, and the Final Map has already been recorded with the County. As a result, the project approvals are eligible to be extended up to seven (7) years beyond the original approval date, and extension of the Tentative Map is not required since the Final Map has been recorded. The Development Plan Review Permit and R-4 Permit are currently valid until October 26, 2010. The applicant initiated the request for a third one-year extension on September 22, 2010 (Attachment E). If granted, the 1-year extension would extend the Development Plan Review Permit and R-4 Permit until October 26, 2011.

The previously approved project is two, five-story residential condominium buildings containing thirty-five residential units. Each building is 55-feet in height and together, total approximately 123,310 square feet in floor area. Parking for the site is located in two subterranean garages below the buildings which are accessed via the alley. A total of 112 parking spaces are provided. The Development Plan Review Permit was approved to allow construction of the project, and the R-4 Permit was approved to allow five walkways within the front yard setback area, instead of the standard 5-foot wide walkway allowed by-right under the Municipal Code. An R-4 Permit was also approved to allow rooftop bathrooms, associated with rooftop swimming pools or spas, located on the top of the buildings to exceed the maximum height limit of 55 feet.



ZONING CODE¹ COMPLIANCE

A detailed review of the proposed project to applicable zoning standards is provided in Attachment F. The proposed project complies with all applicable codes, or is seeking through the requested permits, permission to deviate from certain code standards, in a manner that is consistent with the Zoning Ordinance.

¹ Available online at http://www.sterlingcodifiers.com/codebook/index.php?book_id=466

ENVIRONMENTAL ASSESSMENT

The subject project was previously assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines², 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.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice @ Library	N/A	N/A	10/22/2010	6 Days
Newspaper Notice	N/A	N/A	N/A	N/A
Mailed Notice (Owners & Residents - 300' Radius)	10 Days	10/18/2010	10/18/2010	10 Days
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	10/22/2010	6 Days

Applicant Outreach Efforts

Other than the required public noticing, no public outreach has been conducted by the applicant.

Public Comment

As of the date of the preparation of this report, staff has not received any public correspondence regarding the project.

ANALYSIS³

Project approval, conditional approval or denial is based upon specific findings for each discretionary application requested by the applicant. Draft findings are included with this report in Attachment A and may be used to guide the Planning Commission’s deliberation of the subject project.

The Planning Commission approved this 35-unit condominium project on October 26, 2005, and a one-year time extension is currently requested. 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, green building standards have been adopted by the City since the original approval of the project.

² The CEQA Guidelines and Statue are available online at <http://ceres.ca.gov/ceqa/guidelines>

³ The analysis provided in this section is based on draft findings prepared by the report author prior to the public hearing. The Planning Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to modify the findings. A change to the findings may result in a final action that is different from the staff recommended action in this report.

During its most recent approval of a time extension for the subject project, the Planning Commission incorporated specific green building standards into the conditional approval. With continued incorporation of specific green building standards, the project will continue to be in substantial compliance with the current conditions and regulations affecting development in the City.

Special Conditions of Approval

The recommendation in this report is for approval. In addition to standard conditions of approval, staff recommends the following project-specific conditions related to green building standards. Although staff is recommending partial compliance with the City's green building standards, the project will likely be subject to the new Cal-Green building code standards (depending on building permit submittal date), which are more restrictive than the conditions outlined below. In the event that the more restrictive code standards apply, the conditions below may not be applicable (also see Attachment A):

- Special Condition #1: Staff recommends incorporation of Special Condition #1, which sets forth clear time limits for the extension of entitlements, providing said extension is granted.
- Special Condition #2: Staff recommends incorporation of Special Condition #2 in order to clearly indicate that any approval of a time extension will not modify past approvals with regard to project design or conditions.
- Special Condition #3: Staff recommends incorporation of Special Condition #3, which requires that the project comply with the 2010 Cal-Green building code if building permits are applied for later than December 31, 2010. Although this would be a code requirement, the purpose of this condition is to provide clarification that the project is not exempt from the Cal-Green building code.
- Special Condition #4: Staff recommends incorporation of Special Condition #4, which requires compliance with certain green building requirements. The condition was previously incorporated by the Commission during its most recent time extension approval for the subject project, and staff recommends that this condition continue to remain in place.

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing, and adopt the attached resolution conditionally approving a one-year time extension.

Alternatively, the Planning Commission may consider the following actions:

1. Approve the project with modified findings or conditions of approval.
2. Deny the project, or portions of the project, based on revised findings.
3. Direct staff or applicant as appropriate and continue the hearing to a date (un)certain, consistent with permit processing timelines, and at applicant's request or consent.

Report Reviewed By:



David Reyes, Principal Planner

ATTACHMENT A

Draft Findings and Conditions of Approval

DRAFT FINDINGS

Time Extension

1. *The 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.*

The conditions and regulations affecting development in the city have not changed in a significant manner, nor have there been any substantial changes to the Project or the surrounding environment since the initial Project approval. Further, with the incorporation of Project-specific conditions of approval the Project will achieve partial compliance with the City's green building standards.

DRAFT CONDITIONS

Project Specific Conditions

1. The one-year time extension granted by this Resolution shall cause the entitlements approved under Planning Commission Resolution No. 1400 to remain valid up to and including October 26, 2011.
2. Except as specifically modified by this Resolution, all conditions of Resolution No. 1400 shall remain in full force and effect.
3. In the event that building permits for the Project are applied for after December 31, 2010, the Project shall be subject to all applicable standards set forth in the 2010 Cal-Green building code.
4. The following green building standards shall be incorporated into 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, which meets minimum LEED requirements

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

Standard Conditions

5. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.
6. 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 Planning & 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 Planning & 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.

ATTACHMENT B

Draft Planning Commission Resolution

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS APPROVING A TIME EXTENSION FOR A DEVELOPMENT PLAN REVIEW PERMIT AND R-4 PERMIT, FOR A 35-UNIT RESIDENTIAL CONDOMINIUM PROJECT LOCATED AT 450-460 NORTH PALM DRIVE.

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

Section 1. A Development Plan Review Permit, R-4 Permit and Tentative Tract Map No. 52521, which are components of a previously approved 35-unit residential condominium project (the Project) were originally approved by Resolution No. 1400, adopted by the Planning Commission on October 26, 2005. The Project's Tentative Tract Map No. 52521 approval was valid for a two-year period and the final map was recorded with Los Angeles County on August 7, 2007, prior to the October 26, 2007 expiration date. The Development Plan Review Permit and R-4 Permit were valid for period of three years from the original date of approval. Therefore, the Development Plan Review Permit (required for construction of the project) and R-4 Permit (required for additional front yard paving for walkways) were valid for a three-year period, thus establishing an original expiration date of October 26, 2008. The entitlements were requested for the purpose of development 35-unit residential condominium project in two buildings, for which 112 parking spaces will be provided in two subterranean parking garages. The subject site is currently vacant as the previously existing buildings were demolished in late 2005 and construction of the new buildings has not begun.

Section 2. Pursuant to Section 10-3-207 of the Beverly Hills Municipal Code, the Development Plan Review Permit and R-4 Permit granted under Planning Commission Resolution No.1400 expire if not exercised within thirty-six (36) months of the date of adoption. Because the rights granted under Planning Commission Resolution No. 1400 would have originally expired at 11:59 p.m. on October 26, 2008, the Applicant has previously been granted two, one-year time extensions by the Planning Commission. Provided that entitlements are approved in conjunction with a Tentative Map, Section 10-3-207 of the Beverly Hills Municipal Code allows the Planning Commission to extend the approval of the Development Plan Review Permit and R-4 Permit for up to four, one-year time extensions, thus extending the rights granted for a total of seven years from the date of the initial approval. The two, one-year time extensions previously granted by the Planning Commission have extending the expiration date of the subject entitlements to October 26, 2010. This is the third request for a one-year extension. The application for time extension was timely filed on August 20, 2010 more than 30 days prior to the expiration date of October 26, 2010.

Section 3. The Project was previously environmentally reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA guidelines (California Code of Regulations, Title 14, Section 15000 *et seq.*) and the City's environmental guidelines, and a negative declaration was adopted. Based on the initial study, the previously adopted negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have been no substantial changes to the project or to the environment that would cause the Project to significantly impact the environment. Therefore, the previously adopted negative declaration

continues to represent the independent judgment of the City and there is no substantial evidence that the approval of the Project or this extension may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 4. Notice of the Project and public hearing was mailed on October 15, 2010 to all property owners and residential tenants within a 500-foot radius of the property. On October 28, 2010 the Planning Commission considered the application at a duly noticed public hearing. Evidence, both written and oral, was presented at said meeting.

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

1. The conditions and regulations affecting development in the city have not changed in a significant manner, nor have there been any substantial changes to the Project or the surrounding environment since the initial Project approval. Further, with the incorporation of Project-specific conditions of approval the Project will achieve partial compliance with the City's green building standards.
2. The rights granted under Resolution No. 1400 shall be extended for one year, in order to provide the applicant with additional time to develop the Project.
3. Except as specifically modified by this Resolution, all conditions of Resolution No. 1400 shall remain in full force and effect.

Section 6. Based on the foregoing, the Planning Commission hereby extends the Development Plan Review Permit and R-4 Permit granted under Resolution 1400 through and including October 26, 2011, subject to all conditions set forth in Resolution No. 1400, and the following conditions of approval.

1. The one-year time extension granted by this Resolution shall cause the entitlements approved under Planning Commission Resolution No. 1400 to remain valid up to and including October 26, 2011.

2. Except as specifically modified by this Resolution, all conditions of Resolution No. 1400 shall remain in full force and effect.

3. In the event that building permits for the Project are applied for after December 31, 2010, the Project shall be subject to all applicable standards set forth in the 2010 Cal-Green building code.

4. The following green building standards shall be incorporated into 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, which meets minimum LEED requirements

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

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

6. 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 Planning & 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 Planning & 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 7. If this Resolution is invalidated for any reason, all rights granted under Resolution No. 1400 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
City Planner

ATTACHMENT C

Planning Commission Resolution No. 1400

RESOLUTION NO. 1400

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS MODIFYING THE CONDITIONS OF APPROVAL AND CONDITIONALLY APPROVING VESTING TENTATIVE TRACT MAP NO. 53521, A DEVELOPMENT PLAN REVIEW PERMIT AND R-4 PERMITS FOR A THIRTY-FIVE UNIT RESIDENTIAL CONDOMINIUM STRUCTURE IN TWO, FIVE-STORY BUILDINGS AT PROPERTY LOCATED AT 450-460 NORTH PALM DRIVE

Section 1. Legacy Partners North Palm LLC, property owner (hereinafter referred to as the "applicant"), has submitted an application for a modification to a condition of previously approved Vesting Tentative Tract Map No. 53521, a Development Plan Review Permit ("D.P.R.") and R-4 Permits for front yard paving and rooftop bathrooms for a proposed 123,310 square foot, 55-foot high, five-story residential condominium structure in two buildings at property located at 450-460 North Palm Drive (the "project").

On April 27, 2005, the Planning Commission adopted Resolution No. 1374 issuing a D.P.R. for the project, which provided parking for 111 cars in two subterranean parking garages located under each building. The site was developed with two buildings because of a storm drain easement on the site and the Code's prohibition against buildings of more than 175 feet in width. A request for a variance to connect the buildings was denied by the Planning Commission. Architects Thomas Cox Associates ("TCA") were hired to complete a new project design for review by the Architectural Commission. While working on revised plans, TCA realized that the approved one-level subterranean parking garage under the smaller, 450 N. Palm Drive building did not work as intended as there was not enough head room for vehicles and the ramp slope was too steep which meant many of the proposed parking spaces in that garage could

not be easily accessed. As a result, the applicant submitted this request to modify the subterranean garage plans to reduce the number of parking spaces provided in the structure underneath the 450 N. Palm Drive building and to add a third parking level under the 460 N. Palm Drive building. The requested modification requires a revision to Condition No. 15 in Resolution No. 1374 to eliminate the requirement that a minimum of two parking spaces/per unit be located beneath each building. In addition, a new D.P.R. finding must be made regarding the project's impact on traffic generation, traffic safety hazards and pedestrian vehicle conflicts and pedestrian safety hazards. Evidence presented by both staff and the applicant demonstrate that the proposed changes to the garages will not affect the conclusions of the Traffic Impact Study prepared in connection with the original approval of the project. Garage access will continue to be provided via the same locations off the alley, and the parking (112 spaces) provided on the site fully complies with current Code requirements and is virtually identical to parking (111 spaces) originally approved by the Planning Commission in Resolution No. 1374. The primary differences between the original approval and the current design are the elimination of the loading zone (which is not required by Code and not part of the approval granted by Resolution No. 1374) and the addition of a third subterranean level of parking under the 460 N. Palm Drive building, which allows the project to reduce the number of tandem parking spaces in the project from forty-eight (48) to two (2).

Section 2. The project has previously been 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. Based on the initial study and

the previously adopted negative declaration, the City finds there have been no substantial changes to the project or the environment that would require the preparation of a subsequent negative declaration or a supplement to the previously adopted negative declaration.

Section 3. On September 28, 2005, the Planning Commission held a duly noticed public hearing to consider the instant application. Evidence, both written and oral, was presented at said hearing.

Section 4. Based on 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 proposed modifications to the project design:

4.1 As conditioned under Resolution No. 1374, the project is consistent with the General Plan and Zoning for the site and will have no substantial adverse impact on the surrounding neighborhood, and, except as modified below, the Planning Commission can continue to make each of the findings contained in Resolution No. 1374 in an affirmative manner. Accordingly, the Planning Commission hereby readopts each of the findings set forth in Resolution No. 1374, as modified by this Section 4.

4.2 The findings set forth in Section 7.4 of Resolution No. 1374 are hereby modified to read as follows: "7.4 As conditioned, the proposed project will not create any significant adverse traffic impacts nor vehicular or pedestrian safety or circulation problems. A traffic report prepared for the project concludes that the proposed project will generate an insignificant amount of new trips. While the project's bedroom mix has changed slightly since

the traffic study was prepared, the change does not alter the conclusions set forth in the study. The project will provide 112 parking spaces on site in two subterranean parking garages (one located under each building), which is more than adequate to meet the parking demand expected to be generated by the proposed use and slightly in excess of Code-requirements. Of the required spaces, two (2) will be tandem, which is far less than twenty percent (20%) of the total on-site parking permitted by Code and much less than in the originally approved plan. While the approved plan included slightly more surplus parking (between two (2) and six (6) parking spaces beyond Code requirements, depending on final bedroom counts), the parking spaces were less readily accessible because of the large number of tandem spaces in the prior design. The 112 parking spaces provided by the revised project design are expected to be in excess of parking demand generated by the proposed use and vastly improve on-site circulation from the previous design. As conditioned by this resolution, the two garage driveways will be designed to provide maximum visibility to drivers exiting the property. In order to reduce impacts to local traffic and parking 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 and Transportation and the City Building Official 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.”

Section 6. Based upon the foregoing, the Planning Commission hereby approves the modifications to Vesting Tentative Tract Map No. 53521, Development Plan Review Permit and R-4 Permits 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 March 23, 2005, the rooftop plans submitted to and reviewed by the Planning Commission at its meeting of April 27, 2005, and the revised garage plans submitted to and reviewed by the Planning Commission at its meeting of September 28, 2005.
2. The project shall be constructed as two separate buildings. The applicant shall redesign the project to eliminate the bridge connecting the two buildings to the satisfaction of the Director of Community Development.
3. The front setback shall be a minimum of 25 feet, as required by Code.
4. Each structure shall be constructed in a manner that maintains the twenty-one foot (21') easement and individually allows each structure to meet the minimum side yard setbacks, including a minimum combined side yard setback of 23 feet and a minimum dimension of nine feet (9') for each side yard.
5. Each structure shall be constructed in a manner that allows each building to separately meet the minimum rear setbacks, including a minimum setback of fifteen feet (15') for the 450 North Palm Building and a minimum setback of ten feet (10') for the 460 North Palm Building. In addition, each building shall meet all applicable Code requirements with regard to modulation.

6. Rooftop bathrooms shall not exceed ten feet in height and shall have a maximum floor area of 200 square feet per building.
7. The project shall be subject to the review and approval by the Architectural Commission.
8. To mitigate potential noise impacts to neighboring residents, use of the roof deck areas shall be limited to between the hours of 7:00 a.m. to 10:00 p.m., daily.
9. The applicant shall provide signage in the subterranean parking garages to direct visitors to the visitor parking spaces in the garage. Directional signs and visitor parking space identification shall be designed and installed to the satisfaction of the Director of Transportation. In addition, the applicant shall provide external signage satisfactory to the Director of Community Development indicating that the guest parking for both buildings on the Project site is located in the subterranean parking garage under the 460 North Palm building.
10. An alarm device satisfactory to the Director of Community Development shall be installed at the entrance to the parking garage to warn pedestrians and drivers of vehicles in the adjacent alley. Such device shall consist of a light, not of an audible alarm.
11. The improvements within the storm drain easement area and at the alley entrance from Civic Center (alley dedication) shall be subject to the requirements of the Public Works/Engineering Division prior to the issuance of building permits.
12. The building shall be designed to provide maximum visibility for cars exiting the project's two garages, including, but not limited to, rounding the southern corners of the garage openings and limiting the driveways' northern walls to a height of two and one-

half feet (2.5') at a distance of seven feet (7') from the property line. In addition, the driveway areas must be kept clear of obstructions at all times.

13. Prior to the issuance of building permits, the applicant shall revise the tentative tract map to merge the underlying parcels into a single site or, alternatively, shall prepare a Covenant and Agreement, satisfactory in form and content to the City Attorney, to hold the project as a single site, and shall provide all fees necessary to record the document with the County Recorder.
14. The residents of both buildings shall have access to the gym facilities in the subterranean garage under the 460 North Palm building.
15. The parking for the project site shall meet all applicable requirements of the Beverly Hills Municipal Code. At a minimum, the applicant shall provide not less than twelve (12) parking spaces in the parking garage located beneath the 450 North Palm Drive Building and not less than a total of 112 parking spaces in the two parking garages located on the project site.
16. The configuration of the parking garages shall be as shown on the plans reviewed by the Planning Commission at its meeting of September 28, 2005. No required parking spaces shall be reconfigured as tandem spaces beyond the two tandem spaces (space nos. 48 and 89) unless the Applicant applies for and is granted an amendment to this D.P.R. Nothing in this condition shall be construed to prohibit the applicant from configuring any surplus parking spaces provided on the project site in excess of the number required by the Beverly Hills Municipal Code as tandem parking spaces.

17. The additional basement square footage not used to provide Code-required parking spaces on level three of the subterranean garage under the 460 North Palm building, as shown on the plans reviewed by the Planning Commission at its meeting of September 28, 2005, shall remain flexible for use as storage or parking and shall not be utilized in a manner that would preclude use of that space for parking in the future.
18. In accordance with the provisions of Section 10-2-704 of the Beverly Hills Municipal Code, prior to approval of the Final Map, the applicant shall submit a copy of the proposed covenants, conditions and restrictions (CC&Rs) for the project to the City Attorney for review and approval.
19. The applicant shall submit a Construction Management Plan to the Departments of Building and Safety, Public Works, and Transportation 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 & Safety Department.
 - b. Information regarding the anticipated number of workers, the location of parking with respect to schedules of the construction period, the arrangements 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.
20. The applicant shall protect all existing street trees adjacent to the subject site during construction of the proposed subdivision. No street trees shall be removed and/or relocated unless approval from the Department of Recreation and Parks is obtained. Removal and/or replacement, if approved, shall be accomplished in accordance with the requirements of the Recreation and Parks Department street tree mitigation plan regarding the removal and replacement of such trees. A copy of the street tree mitigation is attached hereto as part of Exhibit A and incorporated herein by this reference. Removal and/or replacement of any street tree shall not commence until the applicant has provided the City with an improvement security, in an amount to be determined by the Public Services Director, and in a form approved by the Engineering Department and the City Attorney, to ensure satisfactory regrowth of any relocated or replacement street trees.
21. In addition to the conditions set forth in this Resolution, the Vesting Tentative Tract Map shall comply with all conditions required by the City's various departments, including but not limited to the conditions, if any, imposed by the Departments of Public Works, Engineering, Building & Safety, Fire and Police. A copy of the standard conditions from the Public Works/Engineering Department is attached hereto as Exhibit A and incorporated herein by this reference.

22. 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.
23. Approval of this project is subject to any and all other discretionary approvals required by the City for the project and for the approval of the Vesting Tentative Tract Map.
24. The applicant shall maintain the site in an orderly condition prior to commencement of 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 Director of Building and Safety.
25. Within three working days after approval of this resolution, the applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.
26. 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 ten 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.

27. 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.
28. This resolution approving Vesting Tentative Tract Map No. 53521 and issuing a Development Plan Review and R-4 Permits (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.

29. The conditions set forth in this Resolution supercede the conditions set forth in Resolution No. 1374

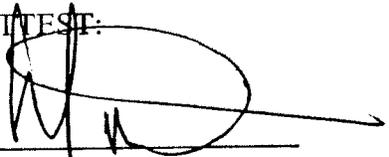
Section 7. If this Resolution is invalidated for any reason, all provisions of Resolution No. 1374, as originally approved, shall remain in full force and effect.

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

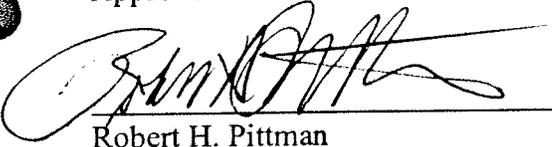
Adopted: October 26, 2005

Kathy Reims

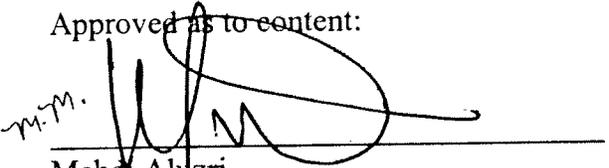
Kathy Reims
Chair of the Planning Commission of the
City of Beverly Hills, California

ATTEST:


Secretary

Approved as to form:


Robert H. Pittman
Assistant City Attorney

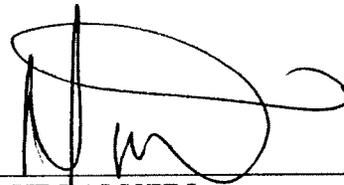
Approved as to content:
M.M. 

Mahdi Aluzri
Director of Community Development

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

I, MAHDI ALUZRI, Secretary of the Planning Commission and Director of Community Development (the "Director") of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1400 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on October 26, 2005, 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 Furie, Krasne, Marks, and Reims.
ABSTAINED: Commissioner Melamed.



MAHDI ALUZRI
Secretary of the Planning Commission/
Director of Community Development
City of Beverly Hills, California

ATTACHMENT D

Public Notice



NOTICE OF PUBLIC HEARING

DATE: October 28, 2010

TIME: 1:30 PM

LOCATION: Council Meeting Room 280A
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its REGULAR meeting on Thursday, October 28, 2010, will hold a public hearing beginning at or after **1:30 PM** to consider:

A Time Extension Request for a Development Plan Review Permit and R-4 Permit. The request is for a one-year time extension of a previously adopted Development Plan Review Permit and R-4 Permit, which are components of a 35-unit condominium project on the property located at **450-460 North Palm Drive**. The project was previously approved by the Planning Commission on October 26, 2005. The one-year extension would extend the existing entitlements until October 26, 2011. The request is being made pursuant to §10-3-207 of the Beverly Hills Municipal Code.

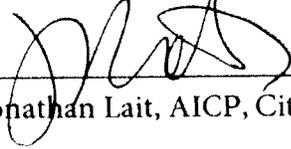
This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. A Negative Declaration for the project was previously adopted by the Planning Commission on October 26, 2005. Therefore, the original Negative Declaration stands, and no additional environmental review is required at this time.

Any interested person may attend the meeting and be heard or present written comments to the Commission.

According to Government Code Section 65009, if you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact **Ryan Gohlich, Associate Planner** in the Planning Division at 310.285.1194, or by email at rgohlich@beverlyhills.org. Copies of the applications, plans, and environmental review are on file in the Community Development Department, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.

Approved as to form:



Jonathan Lait, AICP, City Planner

Mailed October 18, 2010

ATTACHMENT E

Letter from Applicant Requesting Extension

September 20, 2010

Community Development Department
City of Beverly Hills
455 North Rexford Drive, Room G40
Beverly Hills, California 90210

RE: Time Extension Request for DPR and R-4 Permit for 450-460 Palm Drive

Attn: David Reyes, Principal Planner

Dear Mr. Reyes:

We have recently entered into an agreement with a buyer (ETCO Homes) for the property located at 450-460 Palm Drive which has been approved by the City of Beverly Hills for the development of 35 units within two five-story buildings. The original project was approved by the Planning Commission on October 26, 2005 and subsequently extended twice to October 26, 2009 and October 26, 2010. ETCO Homes plans to move forward with the currently approved plans, but will need some additional time to update the existing documents to meet the recently adopted building code requirements and we are concerned that the time remaining on the DPR and R-4 permit may expire prior to their procurement of a building permit for the site.

Therefore, we would respectfully request that this letter be accepted as application for the granting of an additional one-year extension pursuant to Beverly Hills Municipal Code Section 10-3-207 "Time of Exercise of Rights" which allows such permits that include a tentative subdivision map to be extended up to seven (7) years after the original project approval. It is our understanding that pursuant to the municipal code such a request must be made 30 days prior to the expiration of the time limit for the permit (in this case no later than September 26, 2010).

Respectfully yours,

Rafael Mardos
432 Beverly Hills, LLC
President

Cc: Susan Healy Keene, Rita Naziri, Dorina Mohan

ATTACHMENT F
Table - Zoning Compliance

REGULATIONS	PERMITTED / ALLOWED	PROPOSED PROJECT	NOTES
<u>Primary Building</u>			
Height	5 Stories 55 Feet	5 Stories 55 Feet	
Lot Coverage / Floor Area	Controlled by setbacks and height	123,310 square feet	
Front Setback	25 Feet	25 Feet	
Rear Setback	15 Feet	15 Feet	
Side Setback	9 feet and 14 feet	9 feet and 14 feet	
Modulation	7,550 square feet	11,000 square feet	
Open Space	7,000 square feet	13,957 square feet	
<u>Accessory Structure</u>			
Accessory Building (living)	N/A	N/A	
Accessory Garage	N/A	N/A	
Fences/Walls	6 feet	6 feet	
Hedges	3 feet	3 feet	
<u>Parking & Circulation</u>			
Parking Spaces	105	112	
Loading Zones	N/A	N/A	
Aisle Width	24'	24'	
<u>Landscaping</u>			
Front Yard Paving	5 walkways - each 5' wide	5 walkways - each 5' wide	
<u>Light Wells</u>			
Excavation	N/A	N/A	