



Planning Commission Report

Meeting Date: October 28, 2010

Subject: **432 North Oakhurst Drive**

Time extension request for Development Plan Review and R-4 Permit for a five-story, thirty-four unit residential condominium building.

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.
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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 34-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 September 28, 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. 1393](#)
- [Public Notice](#)
- [Letter from Applicant Requesting Extension](#)
- [Table - Zoning Compliance](#)

Report Author and Contact Information:

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BACKGROUND

File Date	8/26/2010
Application Complete	9/20/2010
Subdivision Deadline	N/A
CEQA Deadline	60 days from CEQA Determination
Permit Streamlining	11/19/2010 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 1393 (<u>Attachment C</u>) approving original project on September 28, 2005
Prior Council Action	None

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	432 North Oakhurst Drive
Legal Description	Tract 63361, Lot 1
Zoning District	R-4 Multiple Residential Zone
General Plan	High Density Residential
Existing Land Use(s)	Vacant
Lot Dimensions & Area	205 (front and rear) x 150 (sides): Rectangular in shape with an area of 30,750 square feet
Year Built	Vacant - N/A
Historic Resource	Vacant N/A
Protected Trees/Grove	Vacant N/A

Adjacent Zoning and Land Uses

North	R-4 Multiple Residential Zone
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 Oakhurst Drive
Adjacent Alleys	Two-way alley at rear (east side) of property
Parkways & Sidewalks	16' parkway/sidewalk along Oakhurst
Parking Restrictions	2 hour parking 8AM - 6PM without a permit
Nearest Intersection	Oakhurst and Beverly Blvd.
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. 1393. 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 set to have expired on September 28, 2010, but remain valid until action is taken on the request for time extension. The applicant initiated the request for a third one-year,

extension on August 26, 2010 (Attachment E). If granted, the 1-year extension would extend the Development Plan Review Permit and R-4 Permit until September 28, 2011.

The previously approved project is a five-story, 55-foot high building, with 34 units. Of the 34 units proposed, all are between 1,650 to 2,900 sq. ft. with 19 units having 3 bedrooms, 13 units having three bedrooms and a den, 1 unit having 2 bedrooms, and 1 unit having 2 bedrooms and a den. The project has a two-level, subterranean garage that will be accessed from a 27'6" driveway on North Oakhurst Drive. The garage will contain 112 spaces, with a total garage area of 53,260 sq. ft. A 10-foot wide walkway is proposed to provide access from the public sidewalk to the building. An R-4 Permit was approved to allow the 10-foot wide walkway within the front yard setback area, rather than the 5-foot wide maximum allowed by-right, and to allow reduction in the required rear yard setback from fifteen feet (15') to ten feet (10'). The required outdoor living areas will be provided by the rooftop deck area, patios and balconies.



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.

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

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

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 34-unit condominium project on September 28, 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. 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

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.

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.

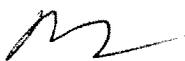
NEXT STEPS

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. 1393 to remain valid up to and including September 28, 2011.
2. Except as specifically modified by this Resolution, all conditions of Resolution No. 1393 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 34-UNIT
RESIDENTIAL CONDOMINIUM PROJECT LOCATED
AT 432 NORTH OAKHURST 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. 63361, which are components of a previously approved 34-unit residential condominium project (the Project) were originally approved by Resolution No. 1393, adopted by the Planning Commission on September 28, 2005. The Project's Tentative Tract Map No. 63361 approval was valid for a two-year period and the final map was recorded with the Los Angeles County Assessor's Office prior to the September 28, 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, and a reduced rear yard setback) were valid for a three-year period, thus establishing an original expiration date of September 28, 2008. The entitlements were requested for the purpose of development 34-unit residential condominium project in two buildings, for which 112 parking spaces will be provided in a two-level subterranean parking garage. 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.1393 expire if not exercised within thirty-six (36) months of the date of adoption. Because the rights granted under Planning Commission Resolution No. 1393 would have originally expired at 11:59 p.m. on September 28, 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 September 28, 2010. This is the third request for a one-year extension. The application for time extension was timely filed on July 22, 2010 more than 30 days prior to the expiration date of September 28, 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. 1393 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. 1393 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 No. 1393 through and including September 28, 2011, subject to all conditions set forth in Resolution No. 1393, 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. 1393 to remain valid up to and including September 28, 2011.

2. Except as specifically modified by this Resolution, all conditions of Resolution No. 1393 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. 1393 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. 1393

RESOLUTION NO. 1393

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS ADOPTING A NEGATIVE DECLARATION AND CONDITIONALLY APPROVING TENTATIVE TRACT MAP NO. 063361, A DEVELOPMENT PLAN REVIEW PERMIT AND AN R-4 PERMIT FOR A THIRTY-FOUR UNIT RESIDENTIAL CONDOMINIUM STRUCTURE ON FOUR LOTS AT PROPERTY LOCATED AT 432 NORTH OAKHURST DRIVE

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

Section 1. The Umbrian Properties LLC, property owner (hereinafter referred to as the "Applicant"), has submitted an application for approval of Tentative Tract Map No. 063361, a Development Plan Review Permit and an R-4 Permit for front yard paving to allow construction of a proposed 89,385 square foot, 55-foot high, five-story residential condominium structure on four lots at property located at 432 North Oakhurst Drive (the "Project"). The Project will contain 34 units and will provide parking for 112 cars in a two-level subterranean parking garage.

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 in accordance with 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 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 3. On July 27, 2005 and August 24, 2005, the Planning Commission held duly noticed public hearings to consider the Project. Evidence, both written and oral, was presented at said hearings.

Section 4. Pursuant to the requirements set forth in Section 66474 of the California Government Code, in reviewing the application for Tentative Tract Map No. 063361, the Planning Commission considered the following issues:

1) Whether the proposed 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 are 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 5. 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 Tentative Tract Map No. 063361:

5.1 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 34-unit residential condominium structure, and condominium developments are permitted by right under the General Plan land-use designation for the Project site.

5.2 As conditioned, the site is physically suitable for the type of development and the proposed density. The site is zoned R-4 and is currently developed with four, two-story apartment buildings. Under the current zoning designation, the Project site can be developed with a maximum density of 34 units; therefore, the development is within the Code-permitted density for the subject property. Because of the existing development on the site and the surrounding area, adequate public facilities exist to serve a 34-unit residential condominium structure. The project site contains sufficient area to meet all applicable development requirements, including but not limited to outdoor living area, parking, and set backs. Therefore, the project site is suitable for the type of development and density proposed.

5.3 As conditioned, the proposed Project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The Initial Study indicates that there will be no significant environmental impacts. Due to the urban location of the Project and the developed state of the Project site and vicinity, there are no fish or wildlife, or their respective habitats, in the vicinity of the Project site that could be potentially impacted by the proposed development.

5.4 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 site will meet City health code standards. The Project will not encroach into any public easement areas.

5.5 The discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the California Regional Water Quality Board. 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 changes in absorption rates that would increase the amount of stormwater runoff from the Project site. Accordingly, approval of the Project will not result in a violation of existing requirements prescribed by the California Regional Water Quality Board.

Section 6. In accordance with the provisions of Beverly Hills Municipal Code Section 10-3-3104, in reviewing the application for a Development Plan Review Permit, 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 proposed plan will significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property; and
- 4) Whether the proposed plan will create any significantly adverse traffic impact, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and whether the proposed plan will be detrimental to the public health, safety or general welfare.

Section 7. 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 the Development Plan Review Permit:

7.1 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 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.

7.2 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 Project is consistent with development in the area as characterized by other five-story, luxury condominium developments adjacent to the Project site. The proposed Project will add new residential units to the overall housing stock of the City. The Project provides excess modulation facing Oakhurst Drive. As conditioned by this resolution, the Applicant will submit the Project design, including a detailed landscaping plan, for the review and approval of the Architectural Commission. Therefore, the Project is consistent and harmonious with the nature and type of development designated for the area in the General Plan.

7.3 As conditioned, the nature, configuration, location, density, height and manner of operation of the Project will not significantly and adversely interfere with the use and enjoyment of other residential properties in the vicinity of the subject property. The Project will

cast shadows to the north and east for some portion of the year, but these shadows are typical of a five-story development and will not significantly and adversely interfere with the use and enjoyment of other residential properties in the vicinity of the subject property. Therefore, the Project is compatible with other residential properties in the vicinity and will promote harmonious development in the surrounding neighborhood.

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. The Project will provide 112 parking spaces on site in a two-level subterranean parking garage under the building, which is more than adequate to meet the anticipated parking demand that will be generated by the proposed use. As conditioned by this resolution, the garage driveways shall be marked to show entrance and exit, and guest parking spaces will be clearly marked. 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 Community Development 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.

7.5 As conditioned, the proposed Project will not be detrimental to the public health, safety, or general welfare. The Project will be constructed in accordance with the City's

Building Code standards, and adequate open space living area has been provided as part of the Project.

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 finds as follows with respect to the applications for R-4 Permits:

8.1 The Applicant has requested an R-4 permit to allow a walkway not to exceed ten feet in width at the building's entrance, on Oakhurst Drive. Pursuant to Beverly Hills Municipal Code Section 10-3-2813(d), the Planning Commission may permit the equivalent of one five-foot (5') wide walkway in the front setback area in any configuration for each fifty feet (50') of frontage along the front line of the subject property, provided the Commission finds the walkway is compatible with the nearby streetscape and with the scale of the surrounding development. The subject lot is 205 feet wide; therefore, a maximum ten-foot wide walkway is permitted if authorized by an R-4 Permit. A proposed ten-foot wide walkway will be compatible with the nearby streetscape because it will match the pattern of paved walkways along the front yards of surrounding properties. A proposed landscape plan in the front yard of the Project will provide a variety of planting materials and greenery to offset the paved area.

Section 9. Based upon the foregoing, the Planning Commission hereby adopts the Negative Declaration and approves Tentative Parcel Map No. 063361 and a Development Plan Review and an R-4 Permit 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 August 24, 2005.
2. Outdoor living areas shall not encroach into the front setback area.
3. Spa equipment shall not be installed within the required side yard setback area.
4. The Project design shall be subject to the review and approval by the Architectural Commission.
5. All parking spaces designated for guests shall be identified on the plans and shall be clearly marked in the garage with signage satisfactory to the Director of Community Development or his designee.
6. The Applicant shall clearly mark entry and exit lands on the driveway entrance with signage satisfactory to the Director of Community Development or his or her designee.
7. The Applicant shall install a flashing light or similar device at the entrance to the parking structure to warn pedestrians of an exiting vehicle. Said lighting shall be directed away from and shall be shielded to prevent "spillover" onto adjacent properties.
8. 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.
9. 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 & 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.
10. 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 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.

11. 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.
12. In addition to the conditions set forth in this Resolution, the 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.
13. 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.
14. 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 Tentative Tract Map.

15. 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.
16. 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.

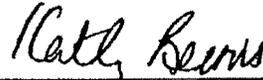
17. The conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the Project.
18. This resolution approving Tentative Tract Map No. 063361 and issuing a Development Plan Review and R-4 Permits (collectively the "Approvals") shall not become 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.

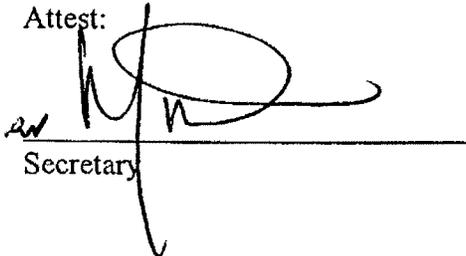
Section 10. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: September 28, 2005



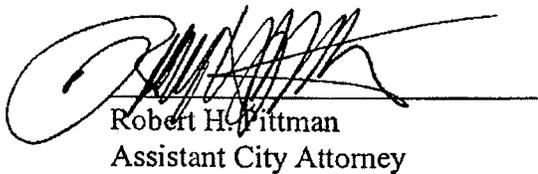
Kathy Reims
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:



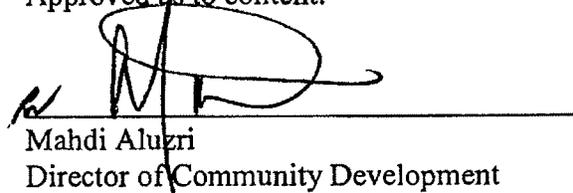
Secretary

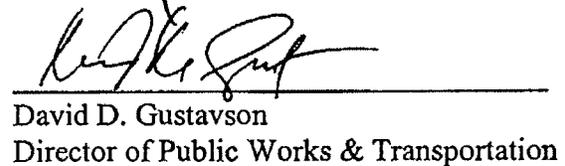
Approved as to form:



Robert H. Wittman
Assistant City Attorney

Approved as to content:



Mahdi Aluzri
Director of Community Development

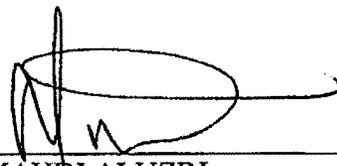
David D. Gustavson
Director of Public Works & Transportation

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. 1393 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on September 28, 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.

ABSENT: 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 34-unit condominium project on the property located at **432 North Oakhurst Drive**. The project was previously approved by the Planning Commission on September 28, 2005. The one-year extension would extend the existing entitlements until September 28, 2011. The request is being made pursuant to §10-3-207 of the Beverly Hills Municipal Code.

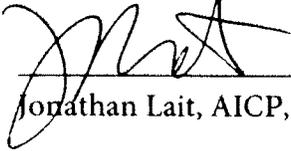
This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. A Negative Declaration for the project was previously adopted by the Planning Commission on September 28, 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



July 22, 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 432 North Oakhurst Drive.

Attn: David Reyes, Principal Planner

Dear Mr. Reyes:

As you are aware, we are currently processing construction plans for the construction of 34 condominium units located at 432 North Oakhurst Drive. The original project was approved by the Planning Commission on September 28, 2005 and subsequently extended twice to September 28, 2009 and September 28, 2010. Although we have made application and are diligently pursuing the necessary building permits for the above described project, we are concerned that the time remaining on the DPR and R-4 permit may expire prior to the procurement of a building permit for the site. In conformance with our previous discussions regarding this issue with Community Development Department staff, it will be necessary to apply for an extension to the current DPR and R-4 approvals (see attached City correspondence dated March 31, 2010).

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 August 28, 2010).

Respectfully yours,

David A. Hudson
Director of Development
Etco Homes, Inc.

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	89,385 square feet	
Front Setback	25 Feet	25 Feet	
Rear Setback	10 Feet	10 Feet	
Side Setback	9 feet and 14 feet	15 feet and 15 feet	
Street Side Setback	N/A	N/A	
Modulation	5,875 square feet	7,014 square feet	
Open Space	6,800 square feet	10,370 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	110	112	
Loading Zones	N/A	N/A	
Aisle Width	24'	24'	
<u>Landscaping</u>			
Front Yard Paving	10' walkway 1 driveway	10' walkway 1 driveway	
Light Wells	N/A	N/A	
Excavation	N/A	N/A	