

June 22, 2006

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New York, New York 10023

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Department of Building and Safety

ZA 2005-9058-CUB-ZV-SPP-SPR
CONDITIONAL USE, ZONE VARIANCE
PROJECT PERMIT, SITE PLAN
REVIEW

2055 Avenue of the Stars
West Los Angeles Planning Area
Incidental Case: Vesting Tentative
Tract 63701

Zone : C2-2-O
D.M. : 132B161
C.D. : 5

CEQA: ENV 2005-4496-EIR
Fish and Game: Exempt
Legal Description: FR A, PM 1495

Pursuant to Los Angeles Municipal Code Section 12.24-W 1, I hereby APPROVE:

a Conditional Use Permit for the sale and dispensing of a full line alcoholic beverages on the premises, including on-site food service, restaurant uses, and off-site in-house food service and retail sales (off-site is limited to the residential uses within Vesting Tentative Tract Map No. 63701), and

Pursuant to Charter Section 562 and Los Angeles Municipal Code Section 12.27, I hereby APPROVE:

a variance from Section 12.26-E.5 of the Los Angeles Municipal Code to permit parking for the non-residential uses at an off-site parking structure by lease in lieu of the required covenant, and

Pursuant to Los Angeles Municipal Code Section 11.5.7-C, I hereby APPROVE:

a Project Permit for the proposed project, and

Pursuant to Los Angeles Municipal Code Section 16.05, I hereby APPROVE:

Site Plan Review for the proposed project.

upon the following additional terms and conditions:

Administrative Conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.

Alcohol Conditions volunteered by the applicant

5. As volunteered by the applicant, alcohol service shall be:
 - a. Restaurant: prohibited after midnight.
 - b. Patio: prohibited before 8:00 A.M. and after 11 P.M. Dinner service shall be discontinued at 10:30 P.M.
6. The sale of alcoholic beverages for consumption off the premises is prohibited. For the purpose of this condition, "premises" means any portion of the site approved pursuant to Vesting Tentative Tract No. 63701, 2055 Avenue of the Stars. Premises is also referred to as "in-house."

Other conditions:

7. Hours of operation:
 - a. Restaurant: 7 a.m. to 2 a.m., seven days per week.
 - b. Food and beverage service on the premises ("in-house"): 24 hours
8. This authorized conditional use shall be valid so long as a bonafide restaurant with an operational kitchen is maintained as the principal use of the permitted premises, and any alcoholic beverages sold or dispensed in the restaurant for consideration shall only be for consumption on the premises and shall be served at tables or sit down counters by employees of the restaurant.
9. The authorized conditional use shall also be valid for off-site sales on the premises ("in-house") only for residential uses during all hours of operation.

10. There shall be no cover charge or prepayment fee for food and/or beverage service required for admission to the restaurant.
11. The restaurant and patio shall offer a full range of non-alcoholic beverages on the menu.
12. The conditions of this grant shall be retained on the premises at all times and be immediately produced upon request of any Los Angeles Police Department (LAPD) peace officer or Department of Alcoholic Beverage Control (ABC) investigator. The restaurant manager and all employees of the restaurant shall be knowledgeable of the conditions herein.
13. All servers must be at least 21 years of age.
14. There shall be no "Happy Hour" or reduced price/special drink promotions.
15. The licensee(s) or an employee of the licensee(s) will monitor the outdoor patio dining area at times when alcoholic beverages are being sold or consumed to ensure that the ABC Act, any State statute and any County or City ordinances are not violated upon this portion of the licensed premises.
16. The boundaries of the outdoor patio dining area will be clearly defined and designated by a physical barrier to separate it from the adjacent private property which is not under the exclusive control of the licensee(s).
17. There shall be no exterior advertising of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of beverages, except that the restaurant may post a menu on an exterior wall, window or door.
18. The restaurant shall develop and implement a Designated Driver program (i.e. free soft drinks or coffee to designated driver of a group) approved by the Zoning Administrator, Either a printed two sided card explaining this program shall be placed on all tables in the restaurant or an explanation of the program shall be printed on the menu.
19. All restaurant personnel involved with the serving of alcoholic beverages shall take available ABC-approved alcohol service training to monitor and identify potentially intoxicated patrons and to prevent the over-consumption of alcoholic beverages.
20. There shall be no live entertainment or dancing at the subject premises except that the applicant may be permitted to occasionally provide non-amplified background music for diners within the restaurant limited to no more than one musician. The music shall not be audible beyond the restaurant premises and no advertisement shall indicate the availability of music on the site. Karaoke is not permitted.
21. No music or public banquets shall be permitted on the restaurant's outdoor patio.
22. There shall be no pool tables, coin operated games or similar game activities or equipment maintained upon the premises at any time.

23. The applicant shall not sublet the premises for nightclub activity and any dance hall use is not permitted on the premises.
24. The applicant shall submit a parking management plan to the satisfaction of the Zoning Administrator . Such plan shall provide for valet parking to the subject site.
25. The applicant shall submit, to the satisfaction of the Zoning administrator, an agreement for parking spaces within 750 feet of the subject commercial uses.
26. The number of patrons permitted in the subject restaurant at any one time shall not exceed 240 (approximately 180 indoors and approximately 60 outdoors).
27. A minimum 8-foot high decorative masonry or concrete wall shall be constructed adjacent to the Restaurant's outdoor patio area towards the Century Woods to completely separate it from the adjacent condominium ground and provide a permanent visual and acoustical separation. The wall shall be screened with landscaping. Normal customer access to the patio shall be from the interior of the restaurant. Required occupant emergency existing provisions from the patio shall be secured to prevent unauthorized exiting to the condominium grounds.
28. A copy of the first page of this grant and all conditions and/or any subsequent appeal of this grant and its resultant conditions and/or letters of clarification shall be printed on the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
29. All conditions of Vesting Tentative Tract No. 63701 and ENV-2005-4496-EIR shall be complied with.

OBSERVANCE OF CONDITIONS – TIME LIMIT – LAPSE OF PRIVILEGES – TIME EXTENSION

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditioned upon the privileges being utilized within two years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void. A Zoning Administrator may extend the termination date for one additional period not to exceed one year, if a written request on appropriate forms, accompanied by applicable fee is filed therefore with a public Office of the Department of City Planning setting forth the reasons for said request and a Zoning Administrator determines that good and reasonable cause exists therefore.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

“A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its conditions. The violation of any valid condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code.”

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD – EFFECTIVE DATE

The applicant’s attention is called to the fact that this variance is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then this variance shall be subject to revocation as provided in Section 12.27 of the Municipal Code. The Zoning Administrator’s determination in this matter will become effective after July 7, 2006, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator’s action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available online at www.lacity.org/pln.** Public offices are located at:

Figueroa Plaza
201 North Figueroa Street
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City’s decision becomes final.

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would

include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the statements made at the public hearing on May 24, 2006, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the five requirements and prerequisites for granting a variance as enumerated in Section 562 of the City Charter and Section 12.27 of the Municipal Code have been established by the following facts:

BACKGROUND

The subject site is approximately 3.8 acres and located at the northwest corner of Olympic Boulevard and Avenue of the Stars in Century City. The site is bounded by Avenue of the Stars on the northeast, Olympic Boulevard on the south, multi-family residences (the Century Woods homes) on the west, and the Century Plaza Hotel on the north. The proposed project is subject to the requirements of the West Los Angeles Community Plan, the Century City North Specific Plan Area and the West Los Angeles Transportation Improvement and Mitigation Specific Plan.

The subject site contains a vacant hotel (former St. Regis Hotel), zoned C2-2-O and designated for Regional Commercial uses in the Community Plan. The St. Regis Hotel contained 297 guest rooms, banquet facilities, ballrooms, meeting rooms, office space, a bar/restaurant, a health spa and other ancillary facilities and amenities. Four hundred forty seven hotel parking spaces were provided off-site in a 3,000 space parking structure.

The proposed project will result in the demolition of the existing vacant hotel, and construction of a new 40-story building: 1) 147 luxury residential condominium units of up to approximately 581,000 square feet of Floor Area -- plus an additional approximately 20,000 square feet of Floor Area attributable to balconies; 2) commercial uses of up to 50,000 square feet of Floor Area; and 3) subterranean parking for 368 vehicles.

Under incidental case number Vesting Tentative Tract 63701, the applicant is requesting concurrent approval of an airspace subdivision into four lots – one ground lot and three airspace lots. Proposed Lot 1 will consist of the master lot, airspace Lot 2 will be condominiums, airspace Lot 3 will be commercial uses, and airspace Lot 4 will be residential parking.

The applicant is requesting:

- A Conditional Use Permit for the sale and dispensing of a full line of alcoholic beverages in the entire building, including on-site food service, restaurant uses, and off-site in-house food service and retail sales.

The former hotel, St. Regis, maintained a restaurant with a permit to sell and dispense a full line of alcoholic beverages. The new conditional use request will continue that function. The applicant has requested that off-site sales also be permitted but only to the extent of providing sales and dispensing of alcoholic beverages to the residents of the condominiums who will occupy the residential tower on the subject site.

- A Variance to allow the provision of Code required parking for non-residential uses to be provided in an off-site parking garage secured by a long-term lease in lieu of a covenant.

During its operations, the former St. Regis Hotel parking 447 required spaces off site by covenant within an adjacent 3,000 space parking structure. The current application requests approval to permit continued off-site parking by lease agreement for only the project-related amenities, e.g., resident-focused specialty uses or private membership facility). All residential parking (including guest parking) will be provided on site. All parking will be subject to valet parking services.

- Specific Plan Project Permit Compliance with the Century City North Specific Plan. The applicant is requesting findings of compliance with the Century City North Specific Plan.
- Site Plan Review findings for proposed development on the site. The applicant is requesting Site Plan Review findings for the proposed project.

MANDATED FINDINGS

Conditional Use Findings – Alcoholic Beverages

In order to grant a Conditional Use approval all of the following findings contained in Section 12.24-W.1 of the Los Angeles Municipal Code must be made in the affirmative. Following is a delineation of the findings and the application of the facts of this case to the same.

- 1. That the location of the project will be desirable to the public convenience and welfare.**

The project will establish a mixed-use community of residential and commercial uses consistent with the purpose and intent of the General Plan, the West Los Angeles Community Plan and the Century City North Specific Plan (“CCNSP”). The project offers a very high standard of residential units, amenities and is designed to aesthetically and stylistically complement and enhance Century City.

Century City is a well known regional center, with a mix of high rise commercial, entertainment and mid- to high rise residential. As a Regional Center, it concentrates development – at higher FAR and density – than the surrounding area. As housing, at all level of income, continues to be in demand, and as traffic congestion increases through out the area, a closer physical relationship of housing to jobs will be critical. High end housing located at the subject site will afford a direct relationship to the thousands of jobs within Century City.

Resident-focused amenities as well as the proposed restaurant will benefit the community –at-large in addition to the residents of the condominiums. Key to the restaurant will be the service and dispensing of a full line of alcoholic beverages. Therefore the applicant is approval for on-site and off-site sale and dispensing of alcoholic beverages to the patrons of the restaurant (including the residents of the tower), a sundries shop, lounge areas, the poolside bar and through the on premises (“in-house”) dining services and possible private club.

The restaurant and in-house dining service will afford convenience to the residents of the condominiums. It is further anticipated that the restaurant will service the business community in Century City – the convenience of a restaurant within walking distance from some of the region’s most active businesses and office buildings is a key element of the proposed projects overall appeal.

The restaurant with its in-house dining service will help to reduce vehicular trips from the site inasmuch as the service will be simply located “downstairs,” or provide home delivery. In addition, the close proximity of the restaurant to offices will promote walking over driving to the subject site.

2. The proposed use will be proper in relation to adjacent uses or the development of the community.

Century City is a Regional Center – one of the region’s most prominent mixed-use centers with diverse land uses including a major motion picture studio, worldwide corporate headquarters, regional retail and entertainment venues and luxury housing. By providing housing of similar treatment and design, along with resident-focused amenities, the proposed project will complement the surrounding residential and commercial uses.

As part of the beverage service component of the proposed project, the application is requesting a conditional use permit for the sale and dispensing of a full line of alcoholic beverages for consumption at the restaurant and for in-house dining service. The proposed project may also include a private club, lounge areas, a poolside bar and retail store (such as a sundries shop) that sell alcoholic beverages. The request permit will allow the applicant to dispense and sell alcoholic beverage throughout the site.

Approval of the restaurant includes an outdoor patio area, expected to broaden the appeal of the proposed project to residents and community members alike. The request for alcoholic beverage service includes this patio area.

In all essences the proposed project for the sale and dispensing of alcoholic beverages is similar to the service offered at the former St. Regis Hotel. It was permitted to sell and serve a full line of alcoholic beverages throughout the hotel. The proposed project therefore will be consistent with the previous uses and will not alter the character or nature of development in the immediate neighborhood.

3. That the proposed project will not be materially detrimental to the character of development in the immediate neighborhood and will be in harmony with the various elements and objectives of the General Plan.

Century City has evolved to become one of the most active commercial and residential neighborhoods in the City. The proposed project – a mixed use residential/commercial development – will complement the surrounding uses; reduce commute times and contribute to an overall to reduction in trips.

The proposed dining options will also complement the existing uses in Century City, a designated Regional Center in the City's General Plan. The restaurant and patio will be available to not only residents of the proposed condominium tower, but also to other residents in Century City as well as employees of the surrounding office towers. Due to its proximity to concentrations of residential and commercial uses, the proposed project will assist in trip reduction efforts through "internal capture." The proposed project is consistent with the General Plan's objective of providing complimentary and consistent land uses within proximity to one another.

The proposed project is consistent with the zoning of the site and is within a major mixed-use residential/commercial center that calls for a variety of uses.

The previous use on the site – St. Regis Hotel – also was permitted to sell alcoholic beverages throughout the hotel pursuant to a license from the California Department of Alcohol beverage Control ("ABC"). Therefore, there will be no additional impacts to the neighborhood that will result from the issuance of a conditional use permit to sell beverages at the subject site.

4, That the proposed use will not adversely affect the welfare of the pertinent community.

The Project is designed to aesthetically complement and enhance the Century City area. With the Project's inclusion of 147 luxury condominium units, it is anticipated that most of the residents will frequent existing retail stores, restaurants and services in the area. The development of an integrated Project of this type will help strengthen the area by establishing an additional customer base for businesses located within the vicinity of the Project.

The proposed on-site restaurant will also enhance the Project's appeal and contribute to the economic well being of the area. The applicant seeks the ability to provide a full range of alcoholic beverages in order to meet the needs of the residents as well as the community at large that patronize the restaurant, the lounge, and other amenities offered by the Project. Because the former St Regis hotel provided alcoholic beverages throughout the hotel, the approval of a conditional use permit for the sale of alcoholic beverages will not detrimentally impact the economic welfare of the community.

4. That the granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages, including beer and wine, in the area of the City involved, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration; and also giving consideration to the number and proximity of these establishments within a one thousand foot radius of the site, the crime rate in the area (especially those crimes involving

public drunkenness, the illegal sale or use of narcotics, drugs or alcoholic, disturbing the peace and disorderly conduct), and whether revocation or nuisance proceedings have been initiated for any use in the area.

According to the State's Department of Alcoholic Beverage Control licensing criteria, 5 on-site and 4 off-site licenses are allocated to the subject Census Tract No. 2671. There are currently 19 on-site and 5 off-site licenses in this census tract. Within 600 feet of the subject property, there are 4 on-site and no off-site existing licenses.

Based strictly on ABC's licensing criteria, there is an over-concentration of licenses in the census tract. However, the licensing criteria does not take into consideration that 1) the subject site lies within a Regional Center with an disproportionately high demand for restaurants that offer alcoholic beverages; and 2) that no net new license will be introduced. The previous Hotel operated a bar/restaurant serving a full line of alcoholic beverages and the applicant is not introducing a new use to the subject site. The proposed restaurant will help satisfy that growing demand by providing the community with another dining option that offers a full-line of alcoholic beverages that replaces the previously existing restaurant at the hotel.

Thus, the high concentration of commercial uses; concentration of residential uses and increasing demand for dining options justifies the on-site and off-site sale of alcoholic beverages. The off-site sales will be restricted to residents of the 40-story residential tower – which is part of the proposed project and on the subject site.

The project site is not located in an area with high crime, nor would issuance of a license for the Project create law enforcement problems. The Project will provide a private security service that will monitor the site 24 hours a day, seven days a week.

5. **That the proposed use will not detrimentally affect nearby residentially zoned communities in the area of the City involved, after giving consideration to the distance of proposed use from residential buildings, churches, schools, hospitals, public playgrounds and other similar uses, and other establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.**

Although other residential uses exist adjacent to the proposed site, the site is located a sufficient distance away from these residential communities so as to mitigate any potential disruption that might be caused by ambient noise generated from the sales and dispensing of alcoholic beverages in the proposed restaurant. It is expected that the Project overall will generate less noise than the former St. Regis hotel, as the predominantly residential project is a less intensive use than the prior hotel. Further, the Zoning Administrator has given consideration to churches, schools, hospitals, public playground and other similar uses in making this finding. There are no churches, schools, hospitals, public playgrounds within 1,000 feet of the subject site.

The full time security service within the condominium tower will further assure that public disruption will not occur. The proposal, therefore, will not have a detrimental affect on the nearby residentially zoned area and on any churches, schools, hospitals, public playground and other similar uses

6. That the issuance of a new license to sell alcoholic beverages will serve the public convenience and necessity (as required by California Business and Professions Code Sections 23958 and 23958.4).

In order to put this request into proper perspective, it is important to recognize that the applicant be utilize the existing license issued to the former St. Regis Hotel. As a result, approval of the applicant's CUP to sell alcohol at the project site will not lead to a net increase in the number of licenses in the census tract or generate the type of over concentration of alcohol sales that the California Business and Professions Code Sections 23958 and 23958.4 seek to curtail. Instead, allowing the project to offer alcoholic beverages will serve the public convenience by replacing similar options that were provided by the former St. Regis Hotel.

ABC has established a non-mandatory threshold that theoretically allocates the number of licenses in proportion to the population of a census tract. Based strictly on ABC's licensing criteria, there is an over-concentration of licenses in the census tract that encompasses Century City. However, this census tract also contains the designated Regional Center (Century City) with a disproportionately high demand for restaurants and full service dining establishments that offer alcoholic beverages. Therefore, providing additional dining options which offer alcoholic beverages will serve the public convenience by helping to meet a local demand.

Alcoholic beverage that will be offered at the project site on the premises, other than the restaurant, will cater primarily to the residents of the new condominium units. Thus, alcoholic beverages offered at the lounge areas, sundries shop, poolside bar and the in-house dining service and possibly the private club will not contribute to the over-concentration of alcoholic sale in the Century City area.

The project site is not located in an area with high crime nor would issuance of a license for the project create law enforcement problems. The project will provide a private security services that will be in force and effect 24 hours a day, seven days a week. As a results, the provision of alcoholic beverages on the site will not unduly place a burden on law enforcement resources.

Variance Findings

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 and Section 12.27-D of the Los Angeles Municipal Code must be made in the affirmative. Following is a delineation of the findings and the application of the facts of this case to the same.

9. That the strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations;

The applicant is requesting a variance from Section 12.26-E,5 of the Municipal Code to permit off-site parking by lease in lieu of a required covenant and agreement. The request is for a portion of the total required parking for the subject site, e.g., only for the Project's resident-focused specialty uses (including the restaurant). All other residential

parking will be located on the subject site in several subterranean levels with a minimum of 2 parking spaces for each condominium unit, plus ½ guest parking spaces per dwelling.

The off-site parking location -- at 2030 Century Park West -- is immediately to the west of the site. This parking structure contains approximately 3,000 spaces, and a certain number of these spaces would be secured through a long-term lease entered into between the applicant and the parking structure owner.

Strict application of this provision of the zoning ordinance would result in practical difficulties and unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations. The purpose behind the requirement that offsite temporary parking spaces be secured through a covenant is to ensure that any project approved without the required on-site parking spaces can satisfy the parking requirements, in perpetuity, at the approved-upon off-site location. By requiring a covenant running with the land, the City is able to ensure that the parking spaces will remain for the entire duration that the development exists.

The Applicant has a business arrangement (a lease to 2025) with the 3,000-space parking structure owner that provides for all Code required parking spaces for the resident-focused specialty uses and the restaurant. The parking structure owner is unwilling to enter into a covenant in order to secure those spaces. There are a number of factors that justify allowing the Applicant to secure the off-site spaces by lease in lieu of a covenant.

First, the Applicant plans to provide all Code required parking for the residential units on-site. Only ancillary parking for the resident-focused specialty uses will be provided in the Parking Structure. This provision of off-site parking spaces is consistent with the L.A.M.C., which permits off-site parking near the development site. L.A.M.C. Section 12.21 A.4.(g) allows required spaces for commercial uses to be located "either on the same lot as the use for which they are intended to serve or on another lot not more than 750 feet distant there from...." The Parking Structure abuts the site and shares the same driveway that is used as the primary access point for the project. Thus, the Parking Structure satisfies the Code's 750-foot distance requirement for permissible off-site parking.

Second, the rationale behind requiring a covenant for off-site spaces is to ensure that there will be enough parking spaces for the community to access. This goal is accomplished as the Parking Structure contains approximately 3,000 spaces – few of which are tied to specific uses by covenant. Therefore, there is a surplus supply of parking currently available to the community. Moreover, there are no uses in the immediate vicinity that would likely lease or covenant for the spaces in the future. With no additional uses competing for parking spaces in the parking structure, the community is ensured access to ample parking in the vicinity of the project. The abundance of existing parking in this area of Century City satisfies the main purpose for requiring that off-site parking be secured by covenant.

Third, substantially fewer off-site parking spaces will need to be secured when compared to the prior hotel use on the subject site. Previously, the St. Regis Hotel

secured all of its parking—447 spaces -- at this 3,000-space parking. Under the new project, substantially fewer spaces will be required.

Fourth, parking at the proposed project will be primarily by valet, enabling a regular and consistent control of the use of the off-site spaces.

For the aforementioned reasons, I hereby find that the strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.

10. **That there are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity;**

The special circumstances applicable to the subject property include its location and surroundings that do not generally apply to other property in the same zone and vicinity.

Unlike other areas within Century City, the area surrounding the site is unique in that there exists an ample supply of parking. No parking shortage exists in the area surrounding the site because the off-site parking structure provides 3,000 spaces that are available to the public. The vast majority of these spaces are not secured by a covenant for specific uses. Additionally, there are no other current or potential uses in the immediate vicinity of the project that would utilize spaces in the Parking Structure – either by lease or through a covenant. As a result, the community will be guaranteed a sufficient number of spaces in and around the site regardless of whether spaces for the Project’s resident-focused specialty uses are guaranteed by covenant.

Although parking is in high demand in most of Century City, this is not the case in the area immediately surrounding the site. The availability of a 3,000 public space Parking Structure justifies a variance to allow the Code required spaces for the resident-focused specialty uses to be secured by lease in lieu of a covenant.

11. **That the variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question;**

The owner of the parking structure is unwilling to enter into a covenant to secure the off-site spaces required for the project. Thus, in order to fulfill one of the project’s main objectives of providing resident-focused specialty uses for the benefit of the residents and community members alike, the Applicant must be able to provide the off-site spaces by lease in lieu of a covenant. If the City requires a covenant that is not attainable, the applicant could be forced to abandon the project’s resident-focused specialty uses. This would dramatically alter the character of the project and compromise the concept of a fully integrated development that complements surrounding uses. As a result, the ability to provide off-site parking by lease represents a substantial property right which is fundamental to ensuring the Project’s overall appeal as a mixed use development.

- 12. That the granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located; and**

Covenanted parking spaces are required under the Code in order for the City to ensure that spaces dedicated to a specific use will be available in perpetuity. As stated above, provision of off-site parking by lease will not be materially detrimental to the public because of the ample supply of parking spaces in the Project's immediate vicinity. There are no current or future uses that would compete with the parking spaces currently available to the community. Because of the surplus supply of parking spaces in the project's immediate area, the public welfare will not be harmed should the spaces dedicated to the resident-focused specialty uses be guaranteed by lease in lieu of a covenant.

- 13. That the granting of the variance will not adversely affect any element of the General Plan.**

The Project is located in the West Los Angeles Community Plan and designated for Regional Commercial uses. The property is zoned C2 and within Height District No. 2. The Project is also located within the Century City North Specific Plan area and the West Los Angeles Transportation Improvement and Mitigation Plan area.

The overall goal of the General Plan is to promote an arrangement of land uses, circulation and services which will encourage and contribute to the economic, social, physical health, safety, welfare and convenience of the people who live and work in the City, and to guide the development of communities to meet existing and anticipated needs and conditions. Allowing the Project to provide off-site parking by lease in lieu of a covenant will enable the Project to offer resident-focused specialty uses that meet the needs of both residents and the neighboring community.

Provision of off-site parking will not adversely any element of the West Los Angeles Community Plan, the Century City North Specific Plan, the West Los Angeles Transportation Improvement and Mitigation Plan or the General Plan. The Community Plan's stated parking objective is to "provide parking in appropriate locations in accordance with Citywide standards and community needs." Permitting the required parking spaces for the Project's resident-focused specialty uses to be accommodated through a lease of parking spaces in the Parking Structure will advance this goal by ensuring that the parking spaces are appropriately located.

Specific Plan Project Permit Compliance Findings

In order to grant a Project Permit Compliance, all of the following findings contained in Section 11.5.7-C.2 of the Los Angeles Municipal Code must be made in the affirmative. Following is a delineation of the findings and the application of the facts of this case to the same.

- 14. That the project substantially complies with the applicable regulations, standards, and provisions of the specific plan.**

The Project is located within the Century City North Specific Plan. The Specific Plan's primary purpose is to regulate development by allocating a certain number of specific plan vehicular trips among particular parcels within the area, and by prohibiting development that would cause vehicular trip generation to exceed those allocations.

The Specific Plan calculates trips according to the Cumulative Automobile Trip Generation Potential ("CATGP"). The subject ¹site will have 2,970 Replacement Specific Plan trips following demolition of the existing building (and the recordation of a covenant to formalize a previous trip transfer of 250 trips to the Century Plaza Hotel).

The total number of Specific Plan Trips that will be utilized by the project is between 2,369.85 and 2,929.85 -- less than the 2,970 Specific Plan Trips allocated to the project site. The Project, therefore, complies with the CATGP requirements.

The Specific Plan requires that projects in commercially zoned areas be designed in a way to reasonably assure that it will not cast a shadow for more than two hours, between 8 a.m. and 8 p.m., upon any detached single-family dwelling located outside the Specific Plan Area. A shade/shadow analysis has been completed for the Project and concludes that the Project does not result in shadow impacts on any detached single-family residence outside the Specific Plan Area.

The Project will not be located so as to impede the location or construction of the Pedestrian Corridor, as required by the Specific Plan. The Project does not propose any changes to the existing and completed Pedestrian Corridors and Crossings.

The Project will maintain the existing screening provided by the existing perimeter trees around the site and by much of the site's landscaping. Sufficient distance and screening between the building, public streets, and adjacent buildings will ensure that all ventilation, heating and air conditioning devices are shielded from the plain view of pedestrians, motorists and occupants of neighboring buildings, as required by the Specific Plan.

The Project, therefore, complies with all applicable regulations, standards, and provisions of the Specific Plan.

- 15. That the project incorporates mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review, which would mitigate the negative environmental effects of the project, to the extent physically feasible.**

¹ For residential development, the Specific Plan requires 7.55 Specific Plan trips to be utilized for each dwelling unit. The Project can, therefore, have a maximum of 393 dwelling units (2,970/7.55). The project proposal is to construct only 147 condominium units, thereby utilizing 1,109.85 Specific Plan Trips (147 x 7.55).

Forty-five Specific Plan Trips are required for every 1,000 square feet of sit-down restaurant space. Therefore, 315 Specific Plan trips will be utilized for the proposed 7,000 square foot restaurant (45 x 7). The utilization of 35 Specific Plan Trips is required for every 1,000 square feet of other retail commercial uses. Therefore 945 Specific Plan Trips will be utilized for the proposed 27,000 square feet of resident-focused specialty uses (35 x 27) or 1,505 Specific Plan Trips will be utilized for the proposed 43,000 square foot private/limited membership facility (35 x 43).

Case No. ENV-2005-4496-EIR (State Clearing House No. 2005081042) was prepared for the Project, which incorporates appropriate mitigation measures and mitigation monitoring measures for significant environmental impacts identified. All impacts identified in the EIR have been mitigated to a less than significant level.

Site Plan Review Findings

In order to grant site plan approval for development projects, all of the following findings contained in Section 16.05-F of the Los Angeles Municipal Code must be made in the affirmative. Following is a delineation of the findings and the application of the facts of this case to the same.

16. That the project complies with all applicable provisions of the Los Angeles Municipal Code (L.A.M.C), Planning and Zoning Section and any applicable specific plan.

With approval of the requested discretionary actions, the Project will comply with all applicable provisions of the L.A.M.C, Planning and Zoning Section. The Project is also in compliance with the West Los Angeles Community Plan, the Century City North Specific Plan and the West Los Angeles Transportation Improvement and Mitigation Specific Plan.

17. That the project is consistent with the General Plan.

The Project is located within the West Los Angeles Community Plan. One of the objectives of the Community Plan is to provide for the development of new housing to meet the needs of existing and future residents. The Project helps to attain this goal by providing 147 new condominium units. The Project meets and implements the following goals, objective, and policies of the West Los Angeles Community Plan:

Goal 1 A SAFE SECURE, AND HIGH QUALITY RESIDENTIAL ENVIRONMENT FOR ALL ECONOMIC, AGE, AND ETHNIC SEGMENTS OF THE COMMUNITY.

Objective 1-1. To provide for the preservation of housing and for development of new housing to meet the diverse economic and physical needs of the existing residents and projected population of the plan area to the year 2010.

Policy 1-1.3. Provide for adequate multi-family residential development.

Objective 1-2. To reduce vehicle trips and congestion by developing new housing in proximity to services and facilities.

Policy 1-2.1. Locate higher residential densities near commercial centers and major bus routes where public service facilities and infrastructure will support this development.

Policy 1-2.3. Do not increase residential densities beyond those permitted in the Plan unless the necessary infrastructure and transportation systems are available to accommodate the increase.

Objective 2-2. To promote distinctive commercial districts and pedestrian-oriented areas.

Policy 2-2.1. Encourage pedestrian-oriented design in designated areas and in new development.

Policy 2-2.2. Promote mixed use projects along transit corridors and in appropriate commercial areas.

Policy 2-2.3. Require that mixed-use projects and development in pedestrian oriented areas be designated and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses.

The Project implements each of these policies and objectives by integrating residential and commercial uses in the Century City regional center. Furthermore, the Project is designed to encourage pedestrian oriented activity and reduce vehicular trips by providing residential units within walking distance to regional office and retail uses.

18. That the project is consistent with any applicable adopted redevelopment plan.

The project is not located within a redevelopment plan area.

19. That the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, load areas, lighting, landscaping, trash collections, and other such pertinent improvements, which is or will be compatible with existing and future developments on the neighboring properties.

The proposed project will result in a 40-story mixed use development over subterranean parking set on an approximate 3.8 acre site of which approximately 2 acres will be permanent useable landscaped open space. The residential tower will contain 147 condominiums, with a restaurant, residential-focused specialty retail or a private membership club and other amenities on the first floor and basement levels.

Height & Bulk

The project will be approximately 480 feet in height (plus 17 feet of mechanical equipment) and 40 stories. A 6 to 1 Floor Area Ratio is permitted for the site, which allows up to approximately 1,000,000 square feet of development. At approximately 651,000 square feet, the Project is approximately 65% of the total floor area permitted for the site. The building height will be compatible with other buildings in Century City.

Setbacks

There are no setbacks required in the C2 Zone for commercial uses. However, pursuant to LAMC Section 12.14 C.2, all portions of buildings erected and used for residential purposes must comply with the R4 Zone side and rear yard setback requirements at the floor level of the first story used in whole or in part for residential purposes.

Although not required, the Project will provide a 34-foot 10 inch front yard; a 57-foot 10 inch rear yard facing Century Woods homes; a 44-foot 2 inch side yard facing Olympic Boulevard and a 54-foot 3 inch side yard facing the Century Plaza hotel, affording generous buffers for landscape planting and screening.

Off-Street Parking

The Project will provide approximately 369 residential and 178 commercial parking spaces for a total of 547 spaces. All residential spaces will be provided on-site in several subterranean parking levels. Parking for the restaurant and resident-focused specialty uses will be accommodated in an off-site parking structure immediately to the west of the site. The applicant has applied for a variance in this application to provide the off-site parking spaces by lease in lieu of a covenant.

Lighting

Landscape, decorative and security lighting will be installed throughout the site providing illumination both to the residential and commercial areas of the Project. Lighting will be shielded so as to protect the adjacent residential properties from light infiltration.

Energy efficient site lighting will clearly demarcate vehicular circulation areas, and create dramatic and intimate settings within the garden and terrace areas. Perimeter light levels will be monitored to minimize light spill-over onto adjacent properties, while providing sufficient levels of illumination for resident safety throughout the site.

Landscaping

The Project will provide approximately two acres of useable landscaped open space that exceeds Code requirements. The Project includes amenities such as a private garden, a sitting area and walkways.

Sustainability is a key component to the landscape design concept for the site development. Sustainable practices to be employed include re-use of existing materials on site, use of drought tolerant plant materials and efficient irrigation systems to reduce water requirements, as well as maximizing the area of permeable surfaces throughout the site.

Many of the existing trees will be stored on-site and incorporated into the landscape design. This existing tree collection includes a range of species dominated by Canary Island Pines, in addition to Canary Island Palms, Coral, Fig and Jacaranda trees.

Drought tolerant Mediterranean and California native plants and trees that are well adapted to the soil and climatic conditions of southern California will supplement these trees.

The use of landscape materials will be minimized in order to reduce heat island effect. An existing emergency egress path will be removed and replaced with landscape, and extensive garden spaces will cover the majority of the site.

Trash Collections

Trash Collection areas will be internal to the Project and will not be more visible or accessible to the general public or neighboring residential uses than existing trash collection areas on the site.

- 20. That the project incorporates feasible mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review, which would substantially lessen the significant environmental effects of the project, and/or any additional findings as may be required by CEQA.**

Case No. ENV-2005-4496-EIR (State Clearing House No. 2005081042) was prepared for the Project, which incorporates appropriate mitigation measures and mitigation monitoring measures for significant environmental impacts identified. All impacts identified in the EIR have been mitigated to a less than significant level.

- 21. That any project containing residential uses provides its residents with appropriate type and placement of recreational facilities and service amenities in order to improve habitability for the residents and minimize impacts on neighboring properties where appropriate.**

The Project will provide residents with various luxury amenities and recreational facilities such as a business center, screening room, gym, concierge services, valet parking, outdoor swimming pool, spa and deck. In addition to the residential amenities, the Project will include a 7,000 square foot restaurant and either (a) 27,000 square feet of resident focused specialty uses such as but not limited to, a shoe repair, salon, art gallery, and sundries shop or (b) a 43,000 square foot private membership facility that will be accessible only to residents and a limited number of outside memberships. The Project also offers approximately two acres of landscaped open space, a private garden with sitting areas, attractive landscaping, and walkways.

ADDITIONAL MANDATORY FINDINGS

- 22. According to ZIMAS, the subject property is not located in any flood hazard zone.**
- 23. Pursuant to California Code of Regulations, Title 14, Section 15090, an Environmental Impact Report (EIR) was completed in compliance with the California Environmental Quality Act and current State and City Guidelines to analyze the potential environmental effects that could result from the construction and operation of the proposed project. The City has prepared a Draft EIR with Technical Appendices, a Final EIR and a Revised Final EIR to comply with CEQA and the State CEQA Guidelines (Cal. Code**

Regs. Title 14, Division 6, Chapter 3, Section 15000 et. seq. ["CEQA Guidelines"]). The EIR was completed and recommended for certification by the Environmental Review Section on April 28, 2006. Impacts were found to be significant, but reduced to a less than significant level with mitigation measures, in the following areas: Cultural Resources; Geology and Soils; Hazards and Hazardous Materials; Noise; Public Services; Transportation and Traffic. All environment effects that would result from the Project can be mitigated to a level of insignificance with incorporation of all mitigation measures in the Final EIR.

I hereby certify that action. The findings upon which this letter of determination is based are attached and labeled Exhibit "A:" STATEMENT OF ENVIRONMENTAL EFFECTS, MITIGATION MEASURES, FINDINGS, and MITIGATION MONITORING FOR 2055 AVENUE OF THE STARS CONDOMINIUMS IN THE SITE OF THE FORMER ST. REGIS HOTEL ENV-2005-4496-EIR, State Clearing House No. 2005081042

24. Fish and Game: The subject project, which is located in Los Angeles County, will not have an impact on fish and wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2.

EMILY GABEL-LUDDY
Associate Zoning Administrator
Direct Telephone No. (213) 978-1327

EGL;jh

cc: Councilmember Jack Weiss
Fifth Council District
Adjoining Property Owners
County Assessor