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VIA E-MAIL AND OVERNIGHT EXPRESS

Councilmember Ed Reyes, Chair
Councilmember José Huizar
Councilmember Mitchell Englander
Planning and Land Use Management Committee, Los Angeles City Council
200 N. Spring Street, Room 395
Los Angeles, California 90012

Attn: Sharon Gin (Sharon.Gin@lacity.org)

Re: **Planning and Land Use Management Committee Meeting, March 27, 2012,
Agenda Item No. 4**

Council File No. 11-1140 (CPC-2010-1485-CA): Proposed Ordinance Amending
Los Angeles Municipal Code Provisions Concerning Expiration and Utilization of
Approvals and Harmonizing Review of Multi-Approval Projects

Dear Chairman Reyes and Councilmembers Huizar and Englander:

This firm represents property owners, real estate developers, investors, and applicants for land use approvals throughout the City of Los Angeles (the "City"). We applaud the efforts of the Department of City Planning ("Planning Department") and the City Attorney's Office to update, clarify and harmonize key provisions of the Los Angeles Municipal Code ("LAMC") pertaining to the utilization and expiration of discretionary land use approvals. By extending and synchronizing the expiration and utilization of discretionary land use approvals, the various code amendments contained in the proposed ordinance (the "Ordinance") promote the City's economic development objectives of enhancing the climate for economic development and urban revitalization in Los Angeles, encouraging investment and promoting improved quality-of-life and broad economic prosperity for Los Angeles residents.

Although we support the objectives of the Ordinance, we believe that two relatively minor changes to the Ordinance are necessary to ensure that these important objectives are achieved. These proposed changes are discussed below.

Ordinance § 8 Utilization & Expiration of Approvals (amending LAMC § 12.25). In order to avoid the expiration of entitlements for projects whose viability have been jeopardized by the ongoing recessionary economic climate, the Ordinance proposes to amend the LAMC to establish clear and consistent automatic extensions for entitlements based on their effective dates of approval. The Ordinance generally grants longer extensions to older projects, *e.g.*, four-year extensions for projects approved in 2008 and two-year extensions for projects approved in 2010. However, under the Ordinance projects approved in 2009 are inexplicably treated the same as projects approved in 2010. In addition, as drafted by the City Attorney's Office, the revised Ordinance expressly eliminates extensions granted under previously-enacted Ordinance Nos. 180,647 and 181,269, which may actually shorten the expiration periods for certain projects, thereby undermining the policy objectives of the Ordinance.¹ Accordingly, we recommend the following modification to the proposed amendment of LAMC § 12.25-A.3(b), to avoid the unnecessarily hastened expiration for projects approved in 2009 under the new automatic extension provision (additions are underlined, deletions are struck):

b. Approvals With Effective Dates Between July 15, 2005, and December 31, 2010. The expiration period of any approval by the Zoning Administrator, Director of Planning, an Area Planning Commission, or the City Planning Commission as initial decision-makers (as well as any approval by a Deputy Advisory Agency acting in the capacity as a Zoning Administrator or as the Director of Planning's designee), pursuant to the provisions of Chapter I of this Code or any ordinance adopted pursuant to Chapter I of this Code, shall automatically be increased by 60 months if the effective date of approval was July 15, 2005, through December 31, 2007; by 48 months if the effective date of approval was January 1, 2008, through December 31, 2008; by 36 months if the effective date of approval was January 1, 2009, through December 31, 2009, and 24 months if the effective date of approval was January 1, 2009–2010, through December 31, 2010, provided that the Director makes a written finding that the prior discretionary approval and the required environmental review considered significant aspects of the approved project and that the existing environmental documentation under the California Environmental Quality Act is adequate for the issuance of the extension. This one-time extension of time supersedes any previous

¹ Ordinance No. 180,647 (approved in April 2009) and No. 181,269 (approved in August 2010) each provided for automatic extensions of varying lengths for subdivision approvals (tract maps and parcel maps) and quasi-judicial approvals granted in conjunction with subdivision approvals, depending on the expiration date of the particular map.

extensions of time granted pursuant to Ordinances Nos. 180,647 and/or 181,269.

Furthermore, we have been informed by Planning Department staff that the City intends for the extensions under LAMC section 12.25-A.3(b) to be automatic and therefore ministerial, similar to the automatic extensions previously granted under Ordinance Nos. 180,647 and 181,269. As ministerial actions, the extensions would be exempt from review under the California Environmental Quality Act, Public Resources Code, Section 21000, *et seq.* ("CEQA"). See Pub. Resources Code § 21080, subd. (b)(1). As currently drafted, LAMC section 12.25-A.3(b) could be erroneously interpreted as interjecting a discretionary approval process into what had previously been contemplated as a ministerial extension, thereby adding ambiguity concerning the ministerial nature of the extensions. Therefore, we recommend that the Ordinance be further revised to eliminate this ambiguity by deleting the following phrase from proposed LAMC section 12.25-A.3(b):

"provided that the Director makes a written finding that the prior discretionary approval and the required environmental review considered significant aspects of the approved project and that the existing environmental documentation under the California Environmental Quality Act is adequate for the issuance of the extension."

The Ordinance's extension of previously-approved discretionary entitlements will increase regulatory certainty and promote economic development in the City. We greatly appreciate your consideration of these suggested revisions to the Ordinance and welcome the opportunity to discuss them further with Planning Department Staff, the City Attorney's Office, or the committee should any questions arise.

Very truly yours,



JOHN M. BOWMAN

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