

12-13-11
ORD-17
NB-23

Forwarded by Larry Herrera on 12/13/2011 02:48 PM
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Date: 12/13/2011 02:48 PM
Subject: Letter to Mayor Foster and Members of the City Council on behalf of Regency Outdoor Advertising, Inc. - 12/13/11 Council Agenda Items #17 and #23

Honorable Mayor Foster and Members of the City Council, please see the attached letter on behalf of Regency Outdoor Advertising, Inc., and please do not hesitate to contact us with any questions. Thank you very much. -Victor

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12-13-11 Letter to City Council.pdf


9000 Sunset Boulevard Development Agreement.pdf


Article re Tolleson Development Agreements.pdf


WeHo News Article 7-09.pdf

December 13, 2011

Client-Matter: 26881-047

VIA E-MAIL AND HAND DELIVERY

Honorable Mayor Foster and Long Beach City Council
City of Long Beach City Hall
333 W. Ocean Boulevard
Long Beach, CA 90802

Re: Proposed City Sign Ordinance on Regulation of Billboards (Council Agenda Items #17, File 11-1179 and #23, File 11-1252)

Dear Honorable Mayor Foster and Members of the City Council:

This firm represents Regency Outdoor Advertising, Inc. (“Regency”), the owner and operator of several freeway-oriented billboards in the City of Long Beach (the “City”). At last week’s hearing, we believe two issues of great importance were not considered when the Council voted to adopt the proposed Billboard Ordinance (the “Ordinance”):

(1) Billboards on Private Property Can Generate Revenue for Cities – Your June 21, 2011 motion directed City staff to prepare an ordinance that included “possible revenue generating opportunities.” However, at last week’s hearing you were told that, absent a nexus study, this was not possible, when in fact, precedent from numerous other cities indicates that municipalities can obtain revenue from billboards located on private property without having to prepare a nexus study. Furthermore, such funds do not have to be used on billboard take-downs alone;

(2) The Ordinance Benefits Some Council Districts, But Hurts Others - While the Ordinance may lead to the removal of nonconforming billboards in some Council districts, other Council districts with no removals could end up receiving all the new digital billboards. If the City wants to balance the impacts of the Ordinance, you should amend the Ordinance to allow for the creation of sign districts requiring take-downs from the same areas where new signs are erected or converted.

Honorable Mayor Foster and Long Beach City Council
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While we understand that the Ordinance has been in process for two years, this alone is not a sufficient ground for adopting an Ordinance with multiple unintended consequences, and failing to capitalize on the multiple revenue generating opportunities available to the City.

I. Precedent From Other Cities Makes Clear That Monetization Tools Are Available For Billboards Located On Private Property.

On June 21, 2011, this Council directed City staff to prepare an ordinance that explored revenue-generating mechanisms from billboards. Your motion stated:

Motion: Direct the City Manager to present to the Planning Commission proposed regulations for their consideration that include a cap and trade policy to remove as many neighborhood billboards and blight causing billboards in exchange for significantly fewer modern electronic billboards; and further request the City Manager to include proposed regulations for Planning Commission consideration that include *possible revenue generating opportunities*, mobile billboards, optimal exchange ratios, and implementation of a Conditional Use Permit process, where appropriate. Moved by Neal, seconded by Lowenthal. (Emphasis added).

Notwithstanding your request that regulations with possible revenue generating opportunities be incorporated into the Ordinance, at last week's hearing you were told that, absent the preparation of a nexus study, the City could not obtain revenue from billboard companies in exchange for the right to erect new billboards on private property.

Ample precedent from other municipalities shows otherwise. Multiple cities throughout the country have turned to off-site advertising as potential sources of revenue. For example, the City of West Hollywood enters into development agreements with individual property owners and/or sign companies in which the city obtains \$10,000 per month in exchange for allowing one supergraphic/tall wall sign or billboard. Over the life of these development agreements, the City of West Hollywood receives multiple millions of dollars for just one sign. Development Agreement provisions have been incorporated into the signage section of the West Hollywood General Plan and the West Hollywood Municipal Code expressly allows their use. Furthermore, unlike fees, because development agreements are voluntary contracts, Constitutional law on exactions (i.e., nexus and proportionality requirements) is irrelevant.

Honorable Mayor Foster and Long Beach City Council
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Attached as exhibits are news articles referencing development agreement programs in other cities and states, and a copy of one such development agreement for your review. We also still believe that, in addition to development agreements, a fee could easily be imposed for new billboards or digital conversions that would not run afoul of Constitutional law on exactions. Should a nexus study be required for any such fee program, we have no doubt that the various billboard companies doing business in the City could assist in paying for its preparation.

Again, we urge you to consider monetization tools before adopting the Ordinance – this is what you requested of City staff. We also believe that adopting the Ordinance today and requesting a future study of monetization tools would be an exercise in futility. Should you adopt the Ordinance today, a billboard company would have every incentive to apply for all the new digital billboards it wants immediately so that it would not have to share revenue with the City later.

II. “Sign Districts” Can Ensure that the Ordinance Does Not Disproportionately Benefit Some Council Districts and Hurt Others.

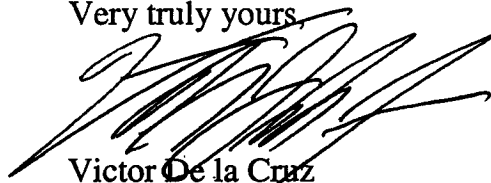
The Ordinance does not presently require that nonconforming signs be removed from the Council district in which a new digital billboard would be located. This means that those Council districts that presently have the majority of nonconforming billboards will benefit greatly, while all, or a majority of the new billboards, may be located in one or two Council districts. Other cities have prevented such an unfair, disproportionate impact from occurring by creating “sign districts.” In connection with these sign districts, cities require that take-downs in exchange for new signs occur from within the boundaries of each sign district where the new signs are being erected. Moreover, each sign district has its own regulations and design guidelines in recognition that digital billboards may not necessarily be appropriate in all locations. Other cities have also negotiated to obtain time for city advertising and public events. Indeed, while the proposed Ordinance limits new billboards and digital conversions to freeways, regional corridors, and major arterial streets, not all such thoroughfares are the same. A one-size-fits-all approach is bound to be problematic.

Honorable Mayor Foster and Long Beach City Council
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As we stated last week, we believe that the Ordinance is not yet ready to be adopted. We respectfully request that you provide staff and City stakeholders additional time to refine the Ordinance.

Thank you very much for your time and consideration.

Very truly yours,



Victor De la Cruz
Manatt, Phelps & Phillips, LLP

cc: Mr. Patrick West, City Manager
Robert E. Shannon, Esq. City Attorney
Mr. Larry G. Herrera, City Clerk
Wendelyn Nichols-Julien, Esq., Manatt, Phelps & Phillips, LLP
Sara Kani, Esq., Manatt, Phelps & Phillips, LLP

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City of West Hollywood

WHEN RECORDED MAIL TO:
City Clerk
City of West Hollywood
8300 Santa Monica Blvd.
West Hollywood, CA
90069

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11/29/2010



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TITLE(S)

DEVELOPMENT AGREEMENT – BY AND BETWEEN THE CITY OF WEST HOLLYWOOD AND MANI BROTHERS NINE THOUSAND (DE), LLC – Regarding the property located at 9000 West Sunset Blvd., West Hollywood, CA

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
CITY OF WEST HOLLYWOOD AND
MANI BROTHERS NINE THOUSAND (DE), LLC
DATED August 3, 2009**

THIS AGREEMENT is entered into as of the 3rd day of August, 2009, by and between the CITY OF WEST HOLLYWOOD, a municipal corporation (the "City"), and MANI BROTHERS NINE THOUSAND (DE), LLC, a Delaware limited liability company ("Owner").

RECITALS

A. Owner is the owner of that certain real property in the City of West Hollywood, County of Los Angeles, and State of California more fully described in Exhibit A hereto (the "Property") improved with a building commonly known as 9000 West Sunset Boulevard, Los Angeles, California (the "Building").

B. The Building is located within the boundaries of the Sunset Specific Plan (the "Specific Plan").

C. The Building is located within the boundaries of a Development Agreement Overlay District governed by Section 19.14.040 of the West Hollywood Municipal Code (the "DA Overlay District Regulations").

D. The City is authorized to enter into development agreements with persons having legal or equitable development interests in real property located within the City pursuant to Government Code Sections 65864 *et seq.*

E. The City has adopted rules and regulations for consideration of development agreements, pursuant to Government Code Section 65865, in Chapter 19.66 of the West Hollywood Municipal Code (the "Code").

F. Owner has requested the City to enter into a development agreement and proceedings have been undertaken in accordance with Chapter 19.66 of the Code in connection with an application under the Specific Plan and the DA Overlay District Regulations for a tall wall sign to be located on the east side of the Building (the "Permitted Sign").

G. The terms and conditions of this Agreement have been found by the City to be fair, just and reasonable, and prompted by the unique planning considerations presented by the Permitted Sign and the extraordinary benefits which will accrue to the City thereby.

H. The public health, safety and welfare of the citizens of the City will be served by entering into this Agreement due to the fact that the Permitted Sign will further the goals of the Specific Plan to encourage the construction and operation of tall wall signs as a signature feature of the Sunset Strip, will contribute to the unique character and vibrancy of the Sunset Strip consistent with the purposes and intent of the Specific Plan, and will generate revenue for the City.

RECORDER'S MEMO: When received document
contained stain(s).
[Signature]
DEPUTY

I. The Permitted Sign is consistent with the design guidelines and standards set forth in the Specific Plan and the tall wall sign permit regulations set forth in Section 19.34.080.1 of the Code.

J. This Agreement will bind future City Councils to the terms and obligations specified in this Agreement and limit, to the degree specified in this Agreement, the future exercise of the City's ability to regulate signage on the Property.

K. This Agreement will serve to implement the policies, objectives, and standards of the elements of the City of West Hollywood General Plan, the Specific Plan, the DA Overlay District Regulations, the Permitted Sign Approvals, and the Zoning Ordinance and is consistent with the General Plan, the Specific Plan, the DA Overlay District Regulations, the Permitted Sign Approvals, and the Zoning Ordinance.

L. This Agreement will provide assurance to the Owner that it can erect the Permitted Sign and continue its operation and that the conditions with respect to the Permitted Sign will not change after the approval of the Permitted Sign.

AGREEMENT

NOW THEREFORE, in consideration of the above recitals, the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agrees as follows:

1. DEFINITIONS

For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) "Agreement" means this Development Agreement by and between the City and Owner.

(b) "Applicable Rules" means the ordinances, resolutions, rules, regulations, requirements and official policies of the City, including without limitation the Specific Plan, the DA Overlay District Regulations, and Zoning Ordinance, in force as of the Approval Date governing, inter alia, development agreements, signage, and other land use issues (but not including building codes as provided by 3.4.1(c)) and shall also include the Permitted Sign Approvals.

(c) "Application" means the application submitted to the City by the Owner for the Permitted Sign Approvals, a copy of which is attached hereto as Exhibit B.

(d) "Approval Date" means the date of the approval of the Permitted Sign Application.

(e) "Approval Ordinance" means Ordinance No. 09-821, adopted by the City Council of the City on Aug. 3, 2009, approving this Agreement.

- (f) "City" means the City of West Hollywood, California.
- (g) "City Council" means the City Council of the City of West Hollywood.
- (h) "Code" means the Municipal Code of the City of West Hollywood.
- (i) "Commencement Date" means that date which is 30 days following the date on which the City Council of the City adopts the Approval Ordinance.
- (j) "Commission" means the Planning Commission of the City of West Hollywood.
- (k) "DA Overlay District Regulations" means the regulations set forth in Section 19.14.040 of the Code.
- (l) "Development Agreement Act" means Section 65864 *et seq.*, of the California Government Code.
- (m) "General Plan" means the General Plan of the City.
- (n) "Mortgagee" means any mortgagee of a mortgage and beneficiary under a deed of trust with respect to the Property.
- (o) "Owner" means Mani Brothers Nine Thousand (DE), LLC, a Delaware limited liability company, and each of its respective successors and assigns to all or any portion of the Property during such time as such portion is subject to this Agreement. Owner represents that it is the legal owner of the entire Property as of the date of the Permitted Sign Approvals.
- (p) "Permitted Sign" means the tall wall sign located on the Building approved pursuant to the Permitted Sign Approvals and any modifications thereto in accordance with this Agreement and the Applicable Rules.
- (q) "Permitted Sign Approvals" means those discretionary actions and approvals granted by the City with respect to the Application for the Permitted Sign and any modification thereof, including, without limitation, the following: *a 6,500 sq. ft. tall wall billboard and associated lighting on the east face of the Building*
- (r) "Processing Fees" means all routine and generally applicable City-wide fees required by the City for processing applications and permits including, but not limited to, fees for land use applications, building applications, building permits, and certificates of occupancy.
- (s) "Specific Plan" means the Sunset Specific Plan.
- (t) "Term" means the term of this Agreement, as provided in Section 6.1 of this Agreement.
- (u) "Zoning Ordinance" means the comprehensive Zoning Ordinance of the City, found in Article 19 of the Code of the City of West Hollywood as it exists on the Approval Date.

2. THE DEVELOPMENT AGREEMENT PROCESS

2.1 Statement of Benefits and Consideration. The parties hereto have determined that a development agreement is appropriate for the construction and operation of the Permitted Sign due to the substantial benefits to be derived therefrom. As stated in the Specific Plan, tall wall signs and billboards are one of the significant features of the Sunset Strip and the provisions of the Specific Plan with respect to billboards and tall wall signs are designed to allow the Sunset Strip's billboards and tall wall signs to represent Sunset Boulevard's unique character and vibrancy as well as to encourage possibilities for creative and innovative tall wall signs and billboards. The construction of the Permitted Sign is consistent with and will further the goals identified in the Specific Plan with respect to billboards and tall wall signs, including, *inter alia*, to encourage the maintenance and existence of proposed billboards and tall wall signs, to allow for creative and innovative billboards and tall wall signs which will enhance the excitement of the Sunset Strip, and to allow for artwork to be incorporated into existing structures in order to enhance the visual quality of the street and reduce the number of blank walls. In addition, the operation of the Permitted Sign will generate revenues for the City. Accordingly, the Permitted Sign will promote the health, safety and general welfare of the City of West Hollywood and its residents. In exchange for these and other benefits to the City, Owner will receive the assurance that Owner may erect and operate the Permitted Sign during the Term of this Agreement, subject to the terms and conditions herein contained. City has undertaken the necessary proceedings, has found and determined that this Agreement is consistent with the General Plan, the Specific Plan, the DA Overlay District Regulations, the Permitted Sign Approvals and the Zoning Ordinance, and has adopted Ordinance No. DA-821 approving this Agreement. This Agreement does not supersede, nullify or amend any condition imposed in the Permitted Sign Approvals. The City, as a result of the construction and operation of the Permitted Sign in accordance with this Agreement, will receive substantial benefits.

In consideration of the substantial benefits, commitments and consideration to be provided by Owner pursuant to this Agreement and in order to strengthen the public planning process and reduce the economic costs of development, the City hereby provides Owner assurance that it can proceed with the construction and operation of the Permitted Sign for the Term of this Agreement pursuant to the Applicable Rules, the Permitted Sign Approvals and this Agreement. Owner would not enter into this Agreement or agree to provide the public benefits, commitments and consideration described in this Agreement if it were not for the certainty provided by the agreement of the City that the Permitted Sign can be erected and operated during the Term of this Agreement in accordance with the Applicable Rules and the Permitted Sign Approvals.

2.2 Public Hearings. On June 18, 2009 the Planning Commission of the City, after giving notice pursuant to Sections 65090 and 65867 of the California Government Code, held public hearings on Owner's application for this Agreement. The City Council of the City, after providing public notice as required by law, similarly held public hearings on July 20, 2009.

2.3 City Council Findings. The City Council finds that review of the environmental impacts of the Agreement and the Permitted Sign Approvals has been conducted in accordance with the provisions of the California Environmental Quality Act ("CEQA"; Public

Resources Code §§ 21000 et seq.) and the State and local guidelines adopted thereunder, and the City Council has given consideration to such environmental review prior to its approval of this Agreement and the Permitted Sign Approvals and has undertaken all actions necessary to comply with CEQA. The City Council further finds that this Agreement is consistent with the General Plan, the Specific Plan, and all other applicable plans, policies and regulations of the City of West Hollywood.

2.4 Permitted Sign. The Permitted Sign is more particularly described in Exhibit B attached hereto as approved by the Permitted Sign Approvals.

3. VESTED DEVELOPMENT RIGHTS

3.1 Vested Rights. Subject to the terms, conditions, and covenants of this Agreement, including the Reservations of Power in Section 3.3, the City hereby grants to Owner the vested right to erect and operate the Permitted Sign in accordance with, and to the extent of, the Permitted Sign Approvals and the Applicable Rules to the extent that the Applicable Rules are not in conflict with the terms of this Agreement as provided in the Development Overlay District, Section 19.14.040 of the Code. Nothing in this Agreement shall be deemed to obligate Owner to initiate or complete the construction of the Permitted Sign within any period of time or at all.

3.1.1 Certain Changes Prohibited Without Consent of Owner. Except as otherwise provided in this Agreement, during the Term, the City shall not, as to the Permitted Sign, without the prior written consent of Owner: (a) change the Applicable Rules or the Permitted Sign Approvals as they apply to the Property or Permitted Sign so as to prevent or adversely affect the Permitted Sign Approvals; (b) apply to the Property or the Permitted Sign any new or amended ordinance, resolution, rule, regulation, requirement or official policy that is inconsistent with the Applicable Rules or the Permitted Sign Approvals, so as to prevent or adversely affect the construction or use of the Permitted Sign in accordance with the Applicable Rules or the Permitted Sign Approvals; or (c) apply to the Property or the Permitted Sign any new or amended ordinance, resolution, rule, regulation, requirement or official policy that requires additional discretionary review or approval not otherwise required for the Permitted Sign by the Applicable Rules or Permitted Sign Approvals.

3.1.2 Rights are Vested. Unless amended or terminated in the manner specified in this Agreement (and subject to the provisions of this Agreement), Owner shall, during the entire term of this Agreement, have the rights and benefits afforded by this Agreement and no new or amended law, requirement or policy adopted by the City shall in any way limit or affect Owner's rights and benefits hereunder or the enforceability of this Agreement by Owner and the City, including, without limitation, (i) any ordinances or regulations adopted after the Approval Date or any change in the applicable general or specific plans, zoning, or subdivision regulations adopted by the City which alter or amend the Applicable Rules or the Permitted Sign Approvals, or (ii) the adoption of any new or amended ordinance, resolution, rule, regulation, requirement or official policy that is inconsistent with the Applicable Rules or the Permitted Sign Approvals and would, but for this agreement, prevent or adversely affect the construction and use of the Permitted Sign in accordance with the Applicable Rules or the Permitted Sign Approvals.

3.2 Other Rights.

3.2.1 Future Applications. The City and Owner acknowledge that the Owner may apply for and the City will consider, after the Approval Date, certain additional applications for discretionary actions or discretionary approvals necessary to modify the Permitted Sign (referred to as "Future Permits"). The City agrees that it will process and timely consider under the Applicable Rules any discretionary action or approval for Future Permits which need to be issued by the City in order for the Permitted Sign to operate profitably, provided Owner reasonably and satisfactorily complies with all preliminary procedures, actions, payment of Processing Fees, and criteria generally required by the City for processing applications, and provided further that such Future Applications comply with this Agreement and the Applicable Rules. Owner acknowledges and agrees that City may condition its approval of such Future Applications as is reasonably necessary, in the City's sole discretion, to make the Future Application conform to this Agreement and the Applicable Rules, notwithstanding anything to the contrary contained herein.

3.2.2 Change of Advertising Content. The Owner may, without seeking any further City approvals or public hearing, change the advertising content and graphics of the Permitted Sign by seeking review and approval from the Director of the Community Development Department of the City (or such other official or employee as may in the future be responsible for departmental review of signs under the Code). Approval of the Commission is required to the extent that the proposed changes increase the size of the Permitted Sign, increase the window coverage of the Permitted Sign beyond what is permitted in this Agreement, or alter the location of the Permitted Sign from that contained in the Permitted Sign Approvals as of the date hereof.

3.2.3 Future Ministerial Permits. The Owner may seek additional ministerial permits as required by the City, including, without limitation, building permits, as needed to implement the Permitted Sign Approvals and to construct and operate the Permitted Sign. Collectively, these ministerial permit applications are called the "Ministerial Permits". The City agrees that it will not unreasonably withhold or unreasonably condition any Ministerial Permits which must be issued by the City in order for the Permitted Sign to proceed, provided that Owner reasonably and satisfactorily complies with all preliminary procedures, actions, payment of Processing Fees and criteria generally required for processing such Ministerial Permits, provided further that such Ministerial Permits comply with this Agreement and the Applicable Rules.

3.2.4 Maximum Image Coverage. Pursuant to the Development Overlay District (Section 19.14.040(E) of the Code), and notwithstanding anything that may be in conflict in Section 19.34.080(I)(5) of the Code, the maximum area of the image shall not exceed six thousand five hundred (6,500) square feet.

3.3 Reservations of Power.

3.3.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following subsequent land use regulations shall apply to the Permitted Sign:

(a) Processing Fees imposed by the City to cover the estimated actual costs to the City of processing applications for Permitted Sign Approvals.

(b) Procedural regulations applied on a City-wide, nondiscriminatory basis relating to city entities required to review petitions or applications, forms of petitions and applications, notice requirements, information requested with petitions or applications, conduct of hearings, form of staff reports, nature and type of recommendations by city entities, appeal procedures and any other similar matters of procedure.

(c) Regulations governing building codes and similar construction standards and specifications including, but not limited to, the Uniform Building Codes, as they may be changed from time to time.

(d) Regulations that are necessary to protect the public health and safety which are: (a) based on genuine health, safety and general welfare concerns (other than general growth management issues); (b) which arises out of a documented emergency situation, as declared by the President of the United States, Governor of California, or the Mayor or City Council of the City of West Hollywood; and (c) based upon its terms or its effect as applied, does not apply exclusively or primarily to the Property or the Permitted Sign. To the extent possible, any such regulations shall be applied and construed so as to provide Owner with the rights and assurances provided under this Agreement.

(e) Regulations that are in conflict with the Permitted Sign Approvals, provided Owner has given prior written consent to the application of such regulations to development of the Property (which consent may be withheld by Owner in its sole discretion).

(f) Regulations applied on a Citywide, non-discriminatory basis that do not prevent or adversely affect construction and use of the Permitted Sign.

3.3.2 Modification or Suspension by State or Federal Law. In the event that state or federal laws or regulations, or those of any regional authority having jurisdiction over the Permitted Sign or Property, enacted after the Approval Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state, federal, or regional authority laws or regulations.

3.3.3 Police Power. The parties acknowledge and agree that City is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to City all of its police power which cannot be so limited. This Agreement shall be construed to reserve to City all such power and authority which cannot be restricted by contract.

3.3.4 Taxes, Assessments and Fees. Anything herein to the contrary notwithstanding, City may impose on the Permitted Sign any new non-discriminatory, City-wide taxes, assessments and fees, including but not limited to business license taxes or franchise fees.

3.3.5 Obstruction. The parties acknowledge and agree that nothing in this Agreement serves to impair, limit or diminish the City's police power authority and discretion to consider and act upon applications for development projects in the vicinity of the Property, and that this Agreement does not confer upon Owner a right to an unobstructed view of the Permitted Sign. The parties further acknowledge and agree that nothing in this Agreement, including this subsection, shall serve to impair, limit or diminish Owner's right to comment upon, object to, or legally challenge a development project in the vicinity of the Property.

3.4 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of the City may possess authority to regulate aspects of the Permitted Sign separately from or jointly with City, and this Agreement does not limit the authority of such other public agencies.

3.5 Permitted Sign Payment.

3.5.1 Amount of Permitted Sign Payment. During the Term, Owner shall pay to the City the following amounts per month (the "Permitted Sign Payment"):

(i) Owner shall not be required to make any payments during the first twelve (12) months of the Term.

(ii) Seven Thousand Five Hundred Dollars (\$7,500.00) per month, commencing on the first day of the thirteenth (13th) month of the Term ("Permitted Sign Payment Commencement Date") and ending on the last day of the twenty-fourth (24th) month of the Term.

(iii) Eight Thousand Three Hundred Thirty-Three and 33/100 Dollars (\$8,333.33) per month, commencing on the first day of the twenty-fifth (25th) month of the Term and ending on the last day of the thirty-sixth (36th) month of the Term.

(iv) Nine Thousand One Hundred Sixty-Six and 66/100 Dollars (\$9,166.66) per month, commencing on the first day of the thirty-seventh (37th) month of the Term and ending on the last day of the forty-eighth (48th) month of the Term.

(v) Ten Thousand Dollars (\$10,000.00) per month, commencing on the first day of the forty-ninth (49th) month of the Term and continuing thereafter for the remainder of the Term, subject to the terms of Section 3.5.2.

After the Approval Date, if a structure is constructed on the property located at the southeast corner of Sunset Boulevard and Hammond Street, West Hollywood, and the height of said structure exceeds the height of the base of the Permitted Sign, then upon documentation provided by Owner to the City of a reduction of rental revenue generated from the Permitted Sign, the monthly Permitted Sign Payment shall be reduced to Seven Thousand Eighty Three and 33/100

Dollars (\$7,083.33), notwithstanding the amounts set forth in Section 3.5.1 of this Agreement. Section 3.5.2 shall then apply to the said reduced Permitted Sign Payment.

The Permitted Sign Payment shall be paid quarterly in arrears to City on the first day of each quarter, beginning on the first day of the quarter next following the Permitted Sign Payment Commencement Date. The Permitted Sign Payment for any partial calendar month shall be prorated based on the number of days within such partial calendar month.

3.5.2 Adjustments to Permitted Sign Payment. The Permitted Sign Payment for each month shall be adjusted as of the fifth (5th) anniversary of the Commencement Date and as of the date immediately following the expiration of each successive five (5) year period following such fifth (5th) anniversary (i.e., on the tenth (10th) anniversary of the Commencement Date, on the fifteenth (15th) anniversary of the Commencement Date, and so forth) (each said adjustment date being referred to herein as an "Adjustment Date") to an amount equal to the product of the monthly Permitted Sign Payment in effect immediately prior to the Adjustment Date multiplied by a fraction, the numerator of which is the CPI (as defined below) published three (3) months before the Adjustment Date and the denominator of which is the CPI published five (5) years and three (3) months before the Adjustment Date; provided, however, that in no event shall the amount of the monthly Permitted Sign Payment established as of any Adjustment Date be (i) greater than one hundred and fifteen percent (115%) of the monthly Permitted Sign Payment in effect immediately prior to the Adjustment Date, or (ii) less than one hundred and five percent (105%) of the monthly Permitted Sign Payment in effect immediately prior to the Adjustment Date. The term "CPI" as used herein shall mean the Consumer Price Index All Urban Consumers (all items less food and energy; base year 1982-84 = 100) for the Los Angeles-Riverside-Orange County area published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI is changed so that the base is changed from 1982-84 = 100, the CPI shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI is discontinued or revised during the term of this Agreement, such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised. If there is no such replacement, then City and Owner shall mutually select another recognized price index.

3.6 Occupancy Requirement. Notwithstanding any terms to the contrary herein, if more than fifty percent (50%) of the usable floor area within the Building ("Occupancy Threshold") remains unoccupied for more than six (6) consecutive months during the Term, then for the period commencing on the first (1st) day following such six (6) month period and ending on the first (1st) day thereafter that the occupancy level of the Building exceeds the Occupancy Threshold, Owner shall not have the right to operate the Permitted Sign. For purposes of this Section 3.6, any premises within the Building that is covered by a valid lease shall be deemed to be occupied, even though the tenant may not be physically occupying the premises (including, without limitation, situations where the tenant is not in occupancy due to the construction of tenant improvements, the remodeling of the premises, or any casualty or other event of force majeure). Furthermore, during any period that any major repair, remodeling or reconstruction is being undertaken with respect to the Building, the occupancy level of the Building shall be deemed to be above the Occupancy Threshold, regardless of the actual occupancy level of the Building during such period.

4. ASSIGNMENT, AMENDMENT AND REVIEW

4.1 Assignment

4.1.1 Right to Assign. Owner shall have the right to sell, transfer or assign the Property in whole or in part to any person, partnership, joint venture, firm or corporation at any time during the Term without consent of the City; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement with respect to the property transferred and provided that:

(a) No Event of Default (as defined in Section 5.1.1) by Owner under this Agreement, beyond any applicable notice and cure period, is then in effect, and

(b) that concurrently with the closing of such approved sale, transfer or assignment, Owner shall provide the City with an executed agreement by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes the duties and obligations of Owner under this Agreement to the extent of such transfer or assignment.

Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by Owner under this Agreement and any such assignment shall be void and of no effect. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by paragraph (b) of this Subsection 4.1.1, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed. Owner shall provide to the City such information as the City may reasonably request in order for the City with respect to such transactions.

4.1.2 Applicability. The provisions of Section 4.1.1 shall not be applicable to (i) a transfer or assignment pursuant to a mortgage or deed of trust or (ii) a transfer made in connection with the enforcement of the security interest of a mortgage or deed of trust or by deed in lieu thereof or (iii) to a transfer as a result of which Owner retains effective management control of the Building. Subject to the provisions of Section 4.1 hereof, said provisions shall be applicable to any subsequent transfer by a Mortgagee after it has successfully enforced its security interest.

4.2 Changes and Amendments.

4.2.1 Minor Changes. If Owner reasonably finds that a change or amendment in the Permitted Sign Approvals is reasonably necessary or appropriate, Owner shall apply for any required changes to the Permitted Sign Approvals. The parties acknowledge that refinements or modifications of the Permitted Sign may be required during the Term. The parties agree that refinements and modifications which constitute a "minor" change in the Permitted Sign or Permitted Sign Approvals shall not require an amendment to this Agreement or public notice and a hearing. The City Manager, in consultation with the City Attorney, shall be authorized to make the determination on behalf of the City whether a requested refinement or modification may be effectuated pursuant to this Section 4.2.1 or whether the requested

refinement or modification is of such a character to require an amendment hereof pursuant to Section 4.2.2. The City Manager shall be authorized to approve any minor changes hereunder on behalf of the City. The City Manager shall not unreasonably withhold or delay its determination that a requested refinement or modification is a "minor" change as that term is used herein. A change to the Permitted Sign Approvals shall not be deemed "minor" if such change:

- (a) Increases the maximum height and coverage of the Permitted Sign;
- (b) Requires subsequent or supplemental environmental review under CEQA; or
- (c) Creates a situation adverse to public health or safety.

4.2.2 Other Changes. Any change in the Permitted Sign which is not a "minor change" as defined herein shall require approval in accordance with the Applicable Rules or Section 3.2 of this Agreement, as applicable.

4.3 Annual/Special Review.

4.3.1 Annual Review. The City may, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Owner with the terms of this Agreement. Subject to the notice and cure procedure set forth in Section 5.1.3, such a periodic review may result in amendment or termination of this Agreement, provided a default has been established under the terms of this Agreement. Pursuant to Government Code Section 65865.1, as amended, Owner shall have the duty to file an annual review request with the City, pay any applicable Processing Fees for such annual review and demonstrate its good faith compliance with the terms of this Agreement at such periodic review.

4.3.2 Special Review. The City Council may order a special review of compliance with this Agreement at any time. The Director of Community Development or City Council, as determined from time to time by the City Council, shall conduct such special reviews. Any special review shall comply with the procedural provisions of an annual review as provided by Section 4.3.1.

4.3.3 Opportunity to be Heard. Upon written request to the City by Owner, Owner shall be permitted an opportunity to be heard orally and/or in writing at a hearing before the City Council regarding its performance under this Agreement. Owner shall also be heard before the City Council at any required public hearing concerning a review of action on the Agreement.

4.3.4 Information to be Provided Owner. The City shall, to such an extent as is practical, deposit in the mail to Owner a copy of staff reports and related exhibits concerning contract performance a minimum of seven (7) business days prior to any such review or action upon this Agreement by the Planning Commission or the City Council.

5. DEFAULT, REMEDIES AND TERMINATION

5.1 Enforceability.

5.1.1 Default. Subject to Section 5.1.3, failure by any party to perform any term or provision of this Agreement required to be performed by such party shall constitute an event of default ("Event of Default"). For purposes of this Agreement, a party claiming another party is in default shall be referred to as the "Complaining Party", and the party alleged to be in default shall be referred to as the "Party in Default".

5.1.2 Additional Event of Default. Owner shall also be deemed to be in default under this Agreement if Owner files for reorganization or other relief under any Federal or state bankruptcy or insolvency law, whether voluntarily or by an involuntary bankruptcy or insolvency action, or shall suffer a trustee in bankruptcy or insolvency or receiver to take possession of the assets of Owner, or shall suffer an attachment or levy of execution to be made against the Property unless, within sixty (60) days thereafter, (i) in any of such cases, such circumstances shall have been terminated or released, or otherwise secured in the case of an attachment or levy of execution, or (ii) in the case of a bankruptcy or insolvency proceeding, Owner can provide the City with reasonable assurances that it will have the capacity and ability to go forward and properly maintain and operate the Permitted Sign. As used herein, "reasonable assurances" may include the preparation and submission of a plan of reorganization, provided that such plan shall have been submitted to the appropriate bankruptcy court within one hundred and twenty (120) days after the initial filing and which is approved within sixty (60) days after submission. Should either of such time periods pass without the requisite action having been taken then the preparation and/or filing of a proposed plan shall not be deemed a reasonable assurance. The acceptability of any other form of reasonable assurance shall be in the good faith business judgment of the City.

5.1.3 Procedure Regarding Defaults.

5.1.3.1 Notice of Default. The Complaining Party shall give written notice of default to the Party in Default, specifying the default complained of by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided the Defaulting Party's cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be reasonably necessary to correct the matter). Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies. If an Event of Default occurs, prior to exercising any remedies, the Complaining Party shall give the Party in Default written notice of such default and an opportunity to cure the default within the applicable time period set forth herein. Without limitation, evidence of default may arise in the course of the regularly scheduled annual review or a special review described in Section 4.3.

5.1.3.2 Cure Periods. If the default is reasonably capable of being cured within thirty (30) days, the Party in Default shall have such period to effect a cure prior to exercise of remedies by the Complaining Party. If the nature of the alleged default is such that it cannot practicably be cured within such thirty (30) day period, the cure shall be deemed to have occurred within such thirty (30) day period if (i) the cure is commenced at the earliest practicable date following receipt of the notice; (ii) the cure is diligently prosecuted to completion at all times thereafter; (iii) at the earliest practicable date (in no event later than thirty (30) days after the curing party's receipt of the notice), the curing party provides written notice to the other party that the cure cannot practicably be completed within such thirty (30) day period; and (iv) the cure is completed at the earliest practicable date. In no event shall the Complaining Party be precluded from exercising remedies if a default is not cured within sixty (60) days after the first notice of default is given. Subject to the foregoing, if a party fails to cure a default in accordance with the foregoing, the Complaining Party, at its option, may terminate this Agreement pursuant to California Government Code Section 65868, and/or institute legal proceedings pursuant to this Agreement.

5.1.3.3 Procedures Regarding City Termination. Notice of intent to terminate shall be by certified mail, return receipt requested. Upon delivery by the City of notice of intent to terminate, the matter shall be scheduled for consideration and review by the City Council within thirty (30) days in accordance with Government Code Sections 65867 and 65868. Upon consideration of the evidence presented in said review and a determination by the City Council based thereon, the City may give written notice of termination of this Agreement to Owner. Any determination of default (or any determination of failure to demonstrate good faith compliance as a part of annual review) made by the City against Owner, or any person who succeeds to Owner with respect to any portion of the Property, shall be based upon written findings supported by substantial evidence in the record. Any purported termination of this Agreement for alleged default shall be subject to review in the Superior Court of the County of Los Angeles pursuant to Code of Civil Procedure § 1094.5(c).

5.1.4 Institution of Legal Action. Subject to notice of default and opportunity to cure under Section 5.1.3, and subject further to the limitation on remedies set forth in Section 5.1.5, in addition to any other rights or remedies, any party to this Agreement may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, or to obtain any other remedies consistent with this Agreement. If a legal action or proceeding is brought by any party to this Agreement because of an Event of Default under this Agreement, or to enforce a provision hereof, the prevailing party shall be entitled to reimbursement of all costs and expenses, including reasonable attorneys fees, incurred in prosecuting such legal action or proceeding. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

5.1.5 Remedies.

5.1.5.1 Owner Remedies. In the event that the City wrongfully interferes with Owner's rights under this Agreement to construct and operate the Permitted Sign or otherwise breaches this Agreement and such interference or breach results in Owner's loss of revenue from the Permitted Sign, then the City shall be liable for the loss of revenue resulting

from such interference or breach ("Lost Revenue Damages"). It is acknowledged by the parties that the City would not have entered into this Agreement if it were liable in damages under or with respect to this Agreement or the application thereof, excluding liability for Lost Revenue Damages pursuant to the preceding terms of this Section 5.1.5.1. Accordingly, Owner covenants not to sue for or obtain any monetary damages, other than Lost Revenue Damages, for a breach by the City of any provision of this Agreement. Notwithstanding any terms to the contrary herein and in addition to Owner's right to sue the City for Lost Revenue Damages, Owner shall have the right to sue for specific performance of the City's obligations under this Agreement, it being acknowledged and agreed by the parties that Owner's right to sue the City for Lost Revenue Damages is not, by itself, an adequate remedy for Owner if the City should be determined to be in default under this Agreement.

5.1.5.2 City's Remedies. The parties agree that the City shall have limited remedies for monetary damages and specific performance as specifically provided for in this Section 5.1.5.2. The City shall not have any right to compel specific performance with respect to the construction, operation or leasing of the Permitted Sign, or any obligation herein to do so. Further, the City shall have no right to monetary damages as a result of Owner's failure to construct, operate, lease, or derive revenue from the Permitted Sign. The City shall have the right to sue for monetary damages only with respect to any failure by the Owner to pay (i) any Processing Fees, (ii) any amounts owing pursuant to Section 3.5, or (iii) any amounts owing pursuant to the last three sentences of this Section 5.1.5.2. In no event shall the City be entitled to consequential damages or punitive damages for any breach of this Agreement. In the event (i) Owner is required to remove the Permitted Sign from the Building pursuant to the terms of Section 6.1.3 and fails to do so on or before the Sign Removal Deadline (as defined in Section 6.1.3), and (ii) such failure continues for thirty (30) days after the City delivers written notice of such failure to Owner (such 30th day being referred to herein as the "30-Day Removal Deadline"), then the City shall have the right to enforce such removal by way of an action for specific performance, and, if successful, Owner shall (i) be liable for all costs and expenses incurred by the City, including reasonable attorneys' fees, in pursuing such remedy, and (ii) pay to the City the total amount of the revenue actually received by Owner for the use of the Permitted Sign after the 30-Day Deadline. Furthermore, in the event (i) Owner makes any material modification to the Permitted Sign and fails to obtain from the City any permits or approvals which, pursuant to the Applicable Rules or the Permitted Sign Approvals, are required for such modification, and (ii) such failure continues for thirty (30) days after the City delivers written notice of such failure to Owner (such 30th day being referred to herein as the "30-Day Modification Deadline"), then the City shall have the right to enforce compliance with such Applicable Rules or Permitted Sign Approvals by way of an action for specific performance, and, if successful, Owner shall (i) be liable for all costs and expenses incurred by the City, including reasonable attorneys' fees, in pursuing such remedy, and (ii) pay to the City the total amount of the revenue actually received by Owner for the use of the Permitted Sign during the time period between the 30-Day Modification Deadline and the date on which Owner removes such modification or obtains the permits and approvals required under the Applicable Rules and the Permitted Sign Approvals for such modification. Notwithstanding the foregoing, in the event that the required permits and approvals for such modification cannot reasonably be obtained within thirty (30) days after Owner's receipt of the City's notice, then the 30-Day Modification Deadline shall be extended for such reasonable period of time as may be necessary for Owner to obtain such permits and approvals, provided that Owner applies for the required permits and

approvals within the initial 30-day period and thereafter diligently pursues to completion the steps necessary to obtain such permits and approvals.

5.1.5.3 Voter Actions. The parties understand that the Development Agreement Act authorizes this Development Agreement to bind the City even as to actions taken by voters of City. If a court of competent jurisdiction enters a final, non-appealable order to the contrary and City fails or refuses to perform its obligations under this Agreement solely to comply with a measure adopted by initiative after entry of such a final, non-appealable order subjecting this Agreement to the effects of legislation adopted by initiative after the Approval-Date, this Agreement shall be modified or suspended to the extent required by Government Code Section 65869.5 and Owner's remedies by reason thereof shall be limited to reformation or rescission of this Agreement. Under such circumstances, the provisions of Section 5.1.5.1, to the extent they permit an action for damages, shall not apply. City hereby agrees that, in the event that any action or proceeding challenging the enforceability of this Agreement is initiated as a result of any such measure adopted by initiative, City shall defend in good faith the enforceability of this Agreement and the rights of the City and Owner hereunder, subject to the terms of Section 6.4.1 below.

5.1.5.4 Other Actions. Nothing in this Agreement shall be deemed to, waive or limit any rights and remedies that the parties would otherwise have against the other in the absence of this Agreement.

5.2 Termination of Agreement. As to the Property and all of the rights of Owner hereunder, and except as otherwise provided in this Agreement, this Agreement shall be deemed terminated and of no further effect upon the expiration of the Term of this Agreement. Subject to the notice and cure provisions set forth in Section 5.1.3, the City shall have the right to terminate this Agreement as to the Property and the rights of Owner hereunder, in the event Owner defaults and fails to cure such default within the respective cure period. Subject to the notice and cure provisions set forth in Section 5.1.3, Owner shall have the right to terminate this Agreement and the rights of the City hereunder in the event the City defaults and fails to cure such default within the respective cure period. Notwithstanding any other provisions of this Agreement to the contrary, the Owner retains the right to terminate this Agreement upon thirty (30) days written notice to the City in the event that the Owner reasonably determines that continued operation of the Permitted Sign has become economically infeasible due to changed market conditions, increased costs, or burdens imposed, consistent with this Agreement, by the City or other governmental entity as conditions to subsequent Permitted Sign Approvals. Upon the termination of this Agreement, neither party shall have any further right or obligation with respect to the Property hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement.

6. GENERAL PROVISIONS

6.1 Term.

6.1.1 Term. This Agreement shall commence on the Commencement Date and shall continue for a term of twenty (20) years unless terminated, modified or extended pursuant to the provisions of this Agreement or the mutual consent of the parties hereto. Owner shall have the option to extend the term of this Agreement for an additional period of twenty (20) years, provided that, at the time of the exercise of the option to extend, the Owner shall not be in default of any provisions of this Agreement beyond any applicable notice and cure period. Owner may exercise its option to extend by delivering written notice of such exercise to City at any time prior to the first day of the extension period. Notwithstanding any terms to the contrary herein, the exercise by Owner of its option to extend shall not be effective unless City grants its written consent to the exercise of such option. Within thirty (30) days after City receives Owner's notice of the exercise of its option to extend, City shall notify Owner in writing of City's decision to consent, or withhold consent, to the exercise of such option. If City fails to notify Owner within such thirty (30) day period and such failure continues for an additional thirty (30) days following Owner's delivery of a second notice to City notifying City of its failure to respond to Owner's initial notice, then City's failure to respond within the second 30-day period shall be deemed to constitute City's consent to the exercise of such option.

6.1.2 [Intentionally Omitted].

6.1.3 Removal of Permitted Sign. Upon (i) the termination of this Agreement by Owner pursuant to Section 5.2, or (ii) the expiration of the term of this Agreement (as such term may be extended pursuant to Section 6.1.1), Owner shall remove the Permitted Sign from the Building within thirty (30) days after such termination or expiration (such 30th day being referred to herein as the "Sign Removal Deadline") and the wall on the east side of the Building shall thereafter cease to be used for a tall wall or any other form of off-site advertising, unless Owner is otherwise permitted to maintain the Permitted Sign (or some form thereof) pursuant to any law, ordinance, code, regulation or ruling enacted or promulgated by the City, and, if required, in accordance with a valid permit. In that regard (and except for termination of this Agreement by reason of a default of the City hereunder), Owner expressly acknowledges that it has no vested right to use the wall on the east side of the Building for a tall wall sign or otherwise for off-site advertising aside from (i) the rights provided by this Agreement, as long as it remains in full force and effect, and (ii) any rights arising from any future approvals that may be granted by the City with respect to such signage. Owner also expressly acknowledges the inapplicability of, and waives any rights it may assert or have under the California Outdoor Advertising Act (Business & Professions Code Sections 5200 et seq.) to retain the Permitted Sign as permitted herein beyond the expiration of the term of this Agreement (as such term may be extended from time to time pursuant to Section 6.1.1); provided, however, that the foregoing acknowledgment and waiver shall not apply to any rights which may arise from any future approvals that may be granted by the City with respect to such signage.

6.2 Approval Procedure: Recordation. The following procedure shall govern approval of this Agreement (which shall precede the execution hereof by the City):

(a) Prior to City Council approval of this Agreement, Owner shall execute this Agreement.

(b) City Council shall undertake all necessary proceedings to consider this Agreement in accordance with the procedures established by the Development Agreement Ordinance. Approval by the City shall be by adoption of the Approval Ordinance.

(c) As provided in Section 65868.5 of the Development Agreement Act, the City shall cause a copy of this Agreement to be recorded with the County Recorder within ten (10) days following the adoption of the Approval Ordinance. Any recording costs shall be paid by Owner.

6.3 Cooperation and Implementation. City represents that it will cooperate with Owner to the fullest extent reasonable and feasible to implement this Agreement. Upon satisfactory completion by Owner of all of its preliminary actions and payments of appropriate fees, City shall promptly commence and diligently proceed to complete all steps necessary for the implementation of this Agreement and the development of the Permitted Sign in accordance with the terms of this Agreement, including, but not limited to, the processing and checking of any and all of the following which may be filed or submitted by or on behalf of Owner: (i) Permitted Sign Approvals, agreements, covenants and related matters required under the terms of this Agreement, (ii) plans, specifications and other documents necessary for the erection or modification of the Permitted Sign, and (iii) requests for inspections. Owner shall, in a timely manner, provide City with all documents, plans and other information necessary for the City to carry out its obligations hereunder.

6.4 Legal Challenges.

6.4.1 Owner Defense. If any legal action or other proceeding is instituted by a third party or parties, other governmental entity or official challenging the validity of any provision of the Permitted Sign Approvals or of this Development Agreement (including, without limitation, any action or proceeding which challenges the enforceability of this Agreement and is initiated as a result of a measure adopted by initiative, as described in Section 5.1.5.3 above), Owner and the City shall cooperate in defending any such action. The City shall notify Owner of any such legal action against City within ten (10) days after the City receives service of process, except for any petition for immediate injunctive relief, in which case the City shall notify Owner immediately upon receipt of notice thereof. Owner shall indemnify, hold harmless and defend (with counsel reasonably acceptable to City) the City, and any of its officers, employees or agents for any claim or lawsuit brought to challenge the validity or enforcement of the Permitted Sign Approvals or this Agreement, instituted by a third party or another governmental entity or official. City may, at its option, elect to have the law firm of Jenkins & Hogin, rather than counsel selected by Owner, defend the City in any such claim or lawsuit, in which case Owner shall pay the reasonable fees and costs charged by Jenkins & Hogin in carrying out such defense of the City (not to exceed the City's standard rates), and the City shall cause Jenkins & Hogin to cooperate with Owner's counsel in the defense of such claim or lawsuit. Notwithstanding the foregoing, if the City fails promptly to notify Owner of any legal action against the City, or if the City or Jenkins & Hogin fails to cooperate in the defense, Owner shall not thereafter be responsible for the City's defense or any fees or costs incurred by Jenkins & Hogin in connection therewith. Owner shall promptly pay all monetary awards, judgments, verdicts, court costs and attorneys fees that may be awarded in such action, unless

Owner is relieved of its obligation to defend the City pursuant to the terms of the immediately preceding sentence.

6.4.2 Continued Processing. The filing of any lawsuit(s) by a third party (not a party to this Agreement) after the Approval Date against the City and/or Owner relating to this Agreement or to other development issues affecting the Permitted Sign shall not delay or stop the processing or issuance of any permit or authorization necessary for development of the Permitted Sign, unless the City in good faith determines that such delay is legally required.

6.5 Indemnity.

6.5.1 Owner Indemnity. To the fullest extent permitted by law, Owner hereby agrees, at its sole cost and expense, to defend, protect, indemnify, and hold harmless the City and its elected officials, officers, attorneys, agents, employees, volunteers, successors, and assigns (collectively "Indemnitees") from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, engineers, consultants or other professionals and all costs associated therewith (collectively, "Claims"), (i) arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to any act, failure to act, error, or omission of Owner or any of its officers, agents, servants, lessees, employees, contractors, subcontractors, materialmen, suppliers or their officers, agents, servants, lessees, or employees in connection with the implementation of this Agreement or the Permitted Sign Approvals, or (ii) arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to this Agreement or the Permitted Sign Approvals, any construction permitted pursuant to this Agreement or the Permitted Sign Approvals, or any subsequent use of the Property, or any portion thereof, permitted by this Agreement or the Permitted Sign Approvals, except for any Claims resulting from the gross negligence or intentional acts of an Indemnitee.

6.5.2 Survival of Indemnity. The indemnity provisions contained in Sections 6.4 and 6.5 shall survive the termination of the Agreement and are in addition to any other rights or remedies which Indemnitees may have under the law.

6.6 Notices. All notices or other communications required hereunder shall be in writing and shall be personally delivered (including by means of professional messenger service), or sent by registered or certified mail, postage prepaid, return receipt required, or by electronic facsimile transmission followed by delivery of a "hard" copy, and shall be deemed received on the date of receipt personally, by registered or certified mail or by facsimile.

Unless otherwise indicated in writing, such notice shall be sent addressed as follows:

If to the City:
City Clerk
City of West Hollywood
8300 Santa Monica Boulevard
West Hollywood, CA 90069

With a copy to:
Michael Jenkins
Jenkins & Hogin
1230 Rosecrans Avenue, Suite 110
Manhattan Beach, CA 90266
Telephone: (310) 643-8448
Fax: (310) 643-8441

If to Owner:
Mani Brothers Nine Thousand (DE), LLC
c/o Mani Brothers Real Estate Group
9200 Sunset Boulevard
West Hollywood, CA 90069
Telephone: (310) 777-5000
Fax: (310) 777-5010

With a copy to:
Tony Canzoneri, Esq.
McKenna Long & Aldridge LLP
300 South Grand, Suite 1500
Los Angeles, CA 90071-3124
Telephone: (213) 687-2100
Fax: (213) 687-2149

6.7 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties to this Agreement and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

6.8 Time of Essence. Time is of the essence for each provision of this Agreement of which time is an element.

6.9 Modification, Amendment or Extension. Subject to any notice and hearing requirements imposed by law, this Agreement may be modified, amended and/or extended from time to time by mutual written consent of the City and Owner in the same manner as its adoption by ordinance as set forth in Government Code Sections 65867, 65867.5 and 65868 and Chapter 19.66 of the Municipal Code.

6.10 Conflicts of Law. In the event that state, regional or federal laws or regulations enacted after the Approval Date or the action or inaction of any other affected governmental jurisdiction prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, the parties shall (a) provide the other party with written notice of such state, regional or federal restriction, provide a copy of such regulation or policy and a statement of conflict with the provisions of this Agreement, and (b) Owner and the City staff shall, within thirty (30) days, meet and confer in good faith in a reasonable attempt to modify this Agreement, but only to the minimum extent necessary to comply with such federal, regional or state law or regulation. The City shall

cooperate with Owner in the securing of any permits which may be required as a result of such modifications. Owner may, at its option, upon notification by the City of any such required modification, elect to terminate this Agreement if the required modification that is not acceptable to Owner in its absolute discretion.

6.11 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought and referring expressly to this Section. No waiver of any right or remedy in respect of any occurrence or event shall be deemed a waiver of any right or remedy in respect of any other occurrence or event

6.12 Successors and Assigns. Except as expressly provided to the contrary in this Agreement, the burdens and obligations of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement and all successors in interest to the Property or any portion thereof or any interest therein, and shall be covenants running with the land.

6.13 Governing State Law. This Agreement shall be construed in accordance with the laws of the State of California.

6.14 Constructive Notice and Acceptance. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

6.15 Statement of Compliance. Within thirty (30) days following any written request, in accordance with the notice provisions of this Agreement, which either party may make from time to time, the other party shall execute and deliver to the requesting party a statement certifying that: (a) this Agreement is unmodified and in full force and effect or, in effect, as modified, and stating the date and nature of such modifications; (b) that this Agreement is in full force and there are no current uncured defaults under this Agreement or specifying the dates and nature of any such defaults; and (c) any other information reasonably requested. The failure to deliver such statement within such time shall be conclusive upon the party which fails to deliver such statement that this Agreement is in full force and effect without modification except as may be represented by the requesting party and that there are no uncured defaults in the performance of the requesting party. Said statement(s) shall be in the form reasonably satisfactory to the City, Owner and to any purchaser, lender, title company, governmental agency, or other person reasonably requesting such statement(s) in connection with sale, use, development, construction, financing or marketing of the Property. The City and Owner, for their own respective uses, shall also be entitled to obtain a statement of compliance at any reasonable time.

6.16 Mortgagee Protection. The parties hereto agree that this Agreement shall not prevent or limit the right of Owner at its sole discretion, to encumber the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device (collectively "Mortgage") securing, among other things, financing of the purchase,

development or operation of the Property or any portion thereof (including, without limitation, any combination of purchase financing, construction financing, bridge loans, take-out and permanent financing); provided, however, that any such Mortgage recorded after the date of this Agreement shall be subordinate to this Agreement.

The City acknowledges that prospective lenders providing such financing may request certain interpretations and modifications of this Agreement, and agrees upon request, from time to time, to meet with Owner and representatives of such lenders to discuss in good faith any such request for interpretation or modification. The City shall not unreasonably withhold its consent to any such requested interpretation or modification that the City determines is consistent with the intent and purposes of this Agreement and protects the interests of the City under this Agreement. Any Mortgagee of Property shall be entitled to the following rights and privileges:

Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value.

If the City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Owner under the terms of this Agreement, the City shall provide a copy of that notice to the Mortgagee within three (3) days of sending the notice of default to Owner. The Mortgagee shall have the right, but not the obligation, to cure the default within a period of time equal to the cure period provided to the Owner under this Agreement, plus an additional thirty (30) days, and City shall not exercise any of its remedies with respect to such default until the Mortgagee's cure period has expired.

Any Mortgagee who obtains title to the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Upon obtaining title to the Property, such Mortgagee shall be entitled to all of the rights, privileges and benefits of Owner under this Agreement and shall be bound by and perform all of the obligations imposed upon Owner under this Agreement; provided, however, that such Mortgagee shall not be liable for any prior act or omission of Owner or obligated to cure any default by Owner under this Agreement.

6.17 Covenant of Good Faith and Fair Dealing. No party shall do anything which shall have the effect of harming or injuring the right of the other parties to receive the benefits of this Agreement.

6.18 Covenant of Cooperation. Owner and the City shall cooperate with and assist each other in the performance of the provisions of this Agreement, including assistance in obtaining permits for the development of the Property or the Permitted Sign which may be required from public agencies other than the City. Owner reserves the right to challenge any ordinance, measure, moratorium or other limitation in a court of law if it becomes necessary to protect the development rights vested in the Property pursuant to this Agreement.

6.19 Justifiable Reliance. The City acknowledges that, in investing money and planning effort in and to the Permitted Sign and all public improvements and dedication offers required hereunder, and in undertaking commencement of the Permitted Sign, Owner will be doing so in reliance upon the City's covenants contained in this Agreement and upon the

enforceability of this Agreement, and the City agrees that it will be reasonable and justifiable for Owner to so rely.

6.20 Permitted Sign Is Private Undertaking. It is specifically understood and agreed to by and between the parties hereto that: (1) the subject development is a private development; (2) except for the obligations of the City described herein, if any, the City has no responsibilities for or duty to third parties concerning any public improvement until such time and only until such time that the City accepts the same pursuant to the provisions of this Agreement or in connection with any subdivision map approval; (3) Owner shall have full power over and exclusive control of the real property herein described subject only to the limitations and obligations of Owner under this Agreement and the Permitted Sign Approvals; and (4) the contractual relationship between the City and Owner is such that Owner is not an agent of the City nor is City an agent of Owner.

Notwithstanding the foregoing, nothing contained in this Agreement shall be deemed to waive or modify any otherwise applicable obligations the City, acting in its governmental capacity and not as a party to this Agreement, may have to Owner or any other party, under and in accordance with all applicable laws.

6.21 Further Actions and Instruments. The parties to this Agreement shall cooperate with and provide reasonable assistance to the other parties to the extent contemplated in the performance of all obligations under this Agreement and the satisfaction of the conditions of the Agreement. Upon the request of any party, the other parties shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

6.22 Section Headings. All Article and Section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

6.23 Emergency Circumstances.

(a) If, as the result of specific facts, events or circumstances, the City believes that a severe and immediate emergency threat to the health or safety of the City or its residents, meeting the requirements of subparagraph (b), below, requires the modification or suspension of this Agreement, the City will, after reasonable notice to Owner (in light of all the circumstances), hold a hearing on such facts, events or circumstances, at which Owner shall have the right to address the City Council. The City shall have the right to modify or suspend this Agreement, in whole or in part, if, following such hearing, the City Council determines that such modification or suspension is required in order to protect the health and safety of the City and its residents.

(b) For purposes of this Section 6.23, an emergency must meet each of the following criteria: (i) it must be based on genuine health, safety and general welfare concerns (other than general growth management issues); (ii) it must arise out of a documented emergency

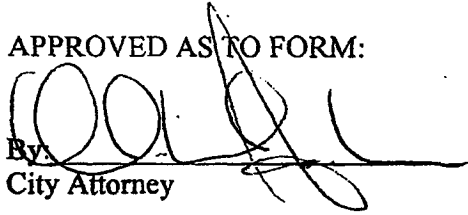
EXHIBIT A

PROPERTY DESCRIPTION

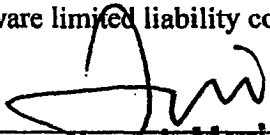
Street Address: 9000 Sunset Boulevard,
West Hollywood, CA 90069
Assessor's Parcel Number: Book: 4340 Page: 026 Parcel: 027

Zoning: Sunset Specific Plan (SSP)

APPROVED AS TO FORM:

By: 
City Attorney

MANI BROTHERS NINE THOUSAND (DE), LLC,
a Delaware limited liability company


By: 
Its: Joseph Mani
Manager

IN WITNESS WHEREOF, the parties have each executed this Agreement on the date first above written.

CITY OF WEST HOLLYWOOD

By: 
Mayor

ATTEST:

By: 
City Clerk

ACKNOWLEDGEMENT

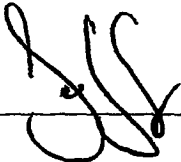
State of California)
)
County of Los Angeles)

On August 13, 2010, before me, Jorge S Hidalgo a Notary Public,
personally appeared JOSEPH MANI, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/they authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

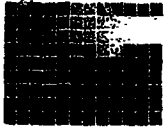
WITNESS my hand and official seal.



Signature 

(Seal)

EXHIBIT B
PERMITTED SIGN APPLICATION



**CITY OF WEST HOLLYWOOD
COMMUNITY DEVELOPMENT
DEPARTMENT**

Application

PLANNING DIVISION PERMIT APPLICATION

PERMIT NUMBERS:
CVW 008.001

ZMA - 009 - 002
DVA - 009 - 001

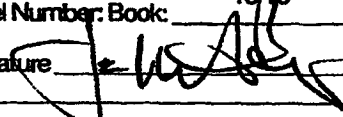
PROPERTY INFORMATION:
STREET ADDRESS 9000 Sunset Boulevard
PRESENT/LAST USE OF PROPERTY Commercial Office

PROJECT PROPOSAL
Summarize the project below or attach a narrative that describes:
1. Demolition of structures and new construction (in square feet for commercial; number of units for residential).
2. Proposed use or activities. (Attach additional pages if necessary).

SEE ATTACHED

PROPERTY OWNER
NAME Mani Brothers Nine Thousand (DE), LLC
ADDRESS 801 Figueroa Street, Suite 1000
CITY Los Angeles STATE CA ZIP 90017
PHONE NUMBER 213-430-0500 FAX 213-430-0501
E-MAIL dmani@manibrothers.com

APPLICANT (if different than property owner)
(This is the person who will be contacted regarding this application. This person will be named as the applicant in all documents relating to the permits.)
NAME Jeffrey A. Seymour, Seymour Consulting Group
ADDRESS 2815 Townsgate Road, Suite 140
CITY Westlake Village STATE CA ZIP 91361
PHONE NUMBER 818-905-0283 FAX 818-905-1631
E-MAIL jeff@jseymourgroup.com

LEGAL DESCRIPTION:
Assessor's Parcel Number: Book 4340 Page 026 Parcel 027 INIT
Applicant's Signature  Date 11-4-8

1.11 Project land area (square footage):

1.12 Number of parking spaces: N/A

1.13 Square feet of building area: N/A

1.14 Numbers of floors: N/A

1.15 Height of tallest structure involved in the project: N/A

1.16 Proposed scheduling and anticipated incremental development. N/A

2.0 LAND FORM

2.1 Is the site presently graded? N/A

2.2 Indicate the gross cubic yard of grading proposed. N/A

2.3 What will be the maximum height and grade or fill after grading is completed? N/A

3.0 VEGETATION

Attach a map indicating the location, type and size of trees located on site (indicate below the number, type and size of trees to be removed as a result of the project) N/A

4.0 AIR QUALITY

If the project is industrial, describe and list air pollution sources and quantity and types of pollutants emitted as a result of the project.

N/A

5.0 NOISE

5.1 What noise will be produced by the property? If available, please give noise levels in decibel measurement and typical time distribution when noise will be produced.

N/A

5.2 How will noise produced by the project compare with existing noise levels? N/A

6.0 TRAFFIC

Approximately how much traffic will be generated by the project:

- 0-50 vehicular trips per day
- 50 - 250 vehicular trips per day
- 250 -500 vehicular trips per day over
- 500 vehicular trips per day

7.0 PUBLIC SERVICES AND FACILITIES

7.1 Will the project require installation or replacement of new water lines? No

7.2 Please estimate the daily volume in gallons required to serve the projects. None

7.3 Will the project require installation or replacement of new sewer lines? No

7.4 Please indicated the approximate amount of sewage generated from the project. (Pounds/Day) None

7.5 Describe the type and amount (pounds/day) of solid waste generated by the project: None

8.0 POPULATION DISPLACEMENT

8.1 Will any residential occupants be displaced by the project activities? None

8.2 Describe briefly the type of buildings or improvements to be demolished by the project. None

9.0 MUNICIPAL SERVICES

Indicate any substantial change in the demand for municipal services (i.e. police, fire, etc.).

None

10.0 MITIGATING MEASURES

10.1 What are included in the project which may conserve or protect the following: • Nonrenewable resources, e.g., electricity, gas, water • Flora and fauna • Water.

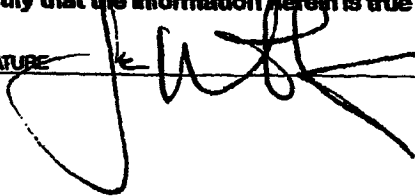
N/A

10.2 What measures are proposed in the design of the project, e.g. architectural treatment and landscaping which have been coordinated with the design of the existing community to minimize visual effect? Please describe.

N/A

I certify that the information herein is true and accurate to the best of my knowledge.

SIGNATURE



DATE

11-4-8

The Sunset Specific Plan calls out as one of its objectives for Area 7, to "improve the appearance and marketability of existing buildings by encouraging distinctive facade, roofscape, and signage improvements".

In addition, goals for billboards and art advertising in the Sunset Specific Plan include:

- "Encourage maintenance and location of existing and proposed billboards."
- "...allow for creative billboards that will enhance the excitement of Sunset Strip without distracting from existing visual aesthetics or interfering with views."
- "Allow for artwork to be incorporated into existing and proposed structures in order to enhance the visual quality of the streets and reduce the number of blank walls."

As noted above, the proposed tall wall incorporates each of the goals and the objective set forth in the Sunset Specific Plan and would be an exciting and welcome addition to the unique streetscape along Sunset Boulevard.

What is the zoning designation of the subject site? SSP

- 3. The site is physically adequate for the type, density, and intensity (e.g., number of employees and customers) of use being proposed, including provision of services (e.g., sanitation and water), public access, and the absence of physical constraints.**

This proposal requests consideration to construct a tall wall on the east-facing wall of the 9000 Building. The applicant does not intend to increase any physical characteristics or use within the existing structure. Accordingly, no intensity in use or services shall take place due to the approval of this request.

- 4. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject site.**

The proposal requests consideration to construct a tall wall on the east-facing wall of the 9000 Building. This landmark site includes the iconic HBO tall wall that faces west.

Tall wall signage has become a significant feature along the famed Sunset Strip and provides those who live, work and visit West Hollywood with a unique one-of-a-kind experience. The proposed tall wall is compatible with the existing land uses both on-site and along Sunset Boulevard.

- 5. The establishment, maintenance, or operation of the proposed use at the location proposed will not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, interest, safety, or the general welfare of persons residing and working in the vicinity of the proposed use.**

The construction of a tall wall on the east face of the landmark 9000 Building supports the goals and objectives found in the Sunset Specific Plan. The proposed tall wall will be a welcome addition along the world famous Sunset Strip complementing the existing HBO tall wall found on the west face of the subject site.

The establishment of a tall wall at the subject site will in no way constitute a menace to the public or to anyone who lives, works or visits Sunset Boulevard.



CITY OF WEST HOLLYWOOD
COMMUNITY DEVELOPMENT
DEPARTMENT

Application Supplement

OWNER'S AFFIDAVIT

State of California, County of Los Angeles

I, (We), Daniel Mani, Mani Brothers Nine Thousand (DE), LLC
 hereby declare under the penalty of perjury that I (we) am (are) the owner(s) of the property involved in this request, or if the owner is a corporation or other entity, that I (we) am (are) duly authorized to execute this affidavit on behalf of said corporations or entity. I (we) further declare that the foregoing statements and the information submitted herewith are true and correct.

I (we) hereby authorize Jeffrey A. Seymour (list applicant's name)
 to apply for CUP (application type: CUP, MCUP, PUP, DVP, AP, DMP, etc.)
 for the installation of a tall wall (list type of activity).

PROPERTY OWNER'S INFORMATION

Daniel Mani or Mani Brothers Nine Thousand (DE), LLC
 OWNER(S) NAME(S)

 SIGNATURE 801 S. Figueroa Street, Suite 1000
 ADDRESS
Los Angeles, CA 90017
 CITY, STATE, ZIP CODE
213-430-0500
 TELEPHONE

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL(S)
- CORPORATE OFFICER(S)
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- OTHER

SIGNER IS REPRESENTING:
Corporation
 NAME OF PERSON(S) OR ENTITY(IES)

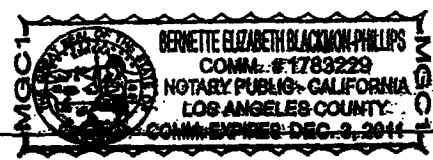
On NOVEMBER 3, 2008 before me, BERNETTE BLACKMON-PHILLIPS Notary Public, personally appeared DANIEL MANI, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
 SIGNATURE

SEAL:

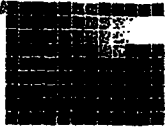


TO ALL APPLICANTS:

Employees of the City of West Hollywood will give every possible assistance to anyone who desires to utilize the remedies provided by the City's zoning ordinance. However, the burden of proof is on the applicant to make the showing necessary before any of the described permits can be granted. Also, there is no guarantee - expressed or implied - that any permit will be granted by whatever agency or individual has authority in the matter. The applicant shall understand also that each matter must be carefully investigated and, after a staff investigation has been made or a public hearing has been held, the staff's recommendation or decision may be contrary to a position taken in any preliminary discussions.

The staff is not permitted to assist the applicant or any opponents of the applicant in preparing arguments for or against a request. I have read the foregoing and understand that I HAVE THE BURDEN OF PROOF in the matter arising under the application made by me.

[Signature] DATE Nov/3/08.



**CITY OF WEST HOLLYWOOD
COMMUNITY DEVELOPMENT
DEPARTMENT**

Application

**CONDITIONAL USE PERMIT
FINDINGS OF FACT**

In addition to the information required in the Development Application, the applicant shall substantiate to the satisfaction of the Director of Community Development the following findings of fact, as required by Section 19.52.040. Please answer in complete sentences.

YES OR NO RESPONSES ARE NOT ACCEPTABLE. PLEASE ATTACH ADDITIONAL INFORMATION

1 The proposed use is allowed within the applicable zoning district with Conditional Use Permit approval, and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.

See Attached

2 The proposed use is consistent with the General Plan and any applicable Specific Plan.

See Attached

What is the zoning designation of the subject site? SSP

3 The site is physically adequate for the type, density, and intensity (e.g., number of employees and customers) of use being proposed, including provision of services (e.g., sanitation and water), public access, and the absence of physical constraints.

See Attached

4 The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property.

See Attached

5 The establishment, maintenance, or operation of the proposed use at the location proposed will not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, interest, safety, or the general welfare of persons residing or working in the vicinity of the proposed use.

See Attached



**CITY OF WEST HOLLYWOOD
COMMUNITY DEVELOPMENT
DEPARTMENT**

Application Supplement

ENVIRONMENTAL QUESTIONNAIRE

PERMIT NUMBERS:

- I. If a project is subject to the requirements of the California Environmental Quality Act and not exempted under any of the provisions of the Guidelines for Implementation of CEQA the City is required to conduct an initial study to determine if the project may have a significant effect on the environment. This Environmental Information Form shall be completed and submitted to the Department of Community Development. Any other permit application, not including a Building Permit, required by the Department of Community Development shall be filed concurrently with the attached form.
- II. The following information and data shall accompany the Environmental Information form.
 - A. Photographs of the area in sufficient detail to depict existing physical conditions in the project area.
 - B. A boundary map clearly outlining the boundaries of the site.

APPLICANT/AUTHORIZED AGENT Jeffrey A. Seymour

MAILING ADDRESS: 2815 Townsgate Road, Suite 140

CITY Westlake Village **STATE** CA **ZIP** 91361

TELEPHONE: 818-905-0283

1.0 PROJECT DESCRIPTION

1.1 Nature of Project: (Please give complete description of proposed project):

See Attached

1.2 Location of Project (Address, nearest street intersections)

9000 Sunset Boulevard

Sunset Boulevard at Hammond Street

1.3 Existing Zoning District:

SSP

1.4 List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies:

None

Tolleson approved first digital billboards amid controversy

by David Madrid - Jun. 24, 2009 03:52 PM
The Arizona Republic



Tolleson's first digital billboards are flashing much controversy.

The City Council approved two digital billboards Tuesday, despite opposition from residents and a non-profit group dedicated to preserving the character of Arizona's countryside.

In unanimous votes, the council approved two V-shaped billboards that will be located on the south side of Interstate 10 with their faces toward the northwest and northeast.

- One will be near the southeast corner of I-10 and 95th Avenue. American Outdoor Advertising of Phoenix will erect the billboard on property that belongs to TR West Ltd. Partnership

- The other will be south of I-10 and west of 83rd Avenue. Molina Outdoor LLC, a Phoenix company, will build the billboard on behalf of Rados Properties-Arizona Land LLC, based in Santa Ana, Calif.

Tolleson resident Barbara Gatchell-Stephens said the signs will lower property values and make it virtually impossible for residents to sell their homes.

"All these signs will do is bring a lot of blight

to the city," she said.

Tolleson resident Mary Porter resented the council for considering the digital billboards.

"I am very, very much against (the billboards), and I can't believe Tolleson would stoop this low," she said.

Councilman Juan Rodriguez added a stipulation that the billboard companies add shields to protect residents from billboard light. The council also required the companies to work to minimize the power needed to run the billboards and to stay up to date with digital technology.

The billboard companies agreed to add the shields, although Dustin Jones, an attorney representing American Outdoor Advertising, said the billboard lights would face away from the residential neighborhoods.

Several billboard requests were on the table, but the city currently allows only two digital billboard use permits.

The council rejected a billboard proposal from E.J. Pospisil, manager of Forret LLC,

Advertisement



which owns Tolleson Towne Center. The Scottsdale company wanted a billboard on its property on the southeast corner of 91st Avenue and McDowell Road.

The council opposed another proposal by American Outdoor Advertising to place a billboard at the southeast corner of I-10 and 95th Avenue.

In addition, the council rejected a variance appeal from Bleier Tolleson LLC, which sought the opportunity to pursue a future billboard request on a narrow piece of property that does not meet the council's billboard requirements.

Attorney Israel Torres argued that Bleier's location south of the Loop 101 and I-10 interchange would mark the true western gateway to Tolleson. A billboard on the property would not meet the requirement it be at least 500 feet from the nearest freeway monument sign. The sign would be 260 feet from the nearest monument sign.

Mark Mayer, with non-profit Scenic Arizona Inc., warned the council that granting the digital billboard use permits violates the Arizona Highway Beautification Act, which prohibits intermittent light on outdoor advertising within 600 feet of state roadways.

He said the issue is being litigated in court now. And he urged the council to wait until the case was resolved before approving the use permits.

He also said Tolleson has no basis for charging billboard companies fees. Therefore, he argued, the city engaged in contract zoning by changing a previous prohibition on all billboards to benefit a limited number of private parties in

exchange for monetary proceeds.

Tolleson will charge a \$3,000-a-month, off-premise-sign advertising fee for each billboard.

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Advertisement

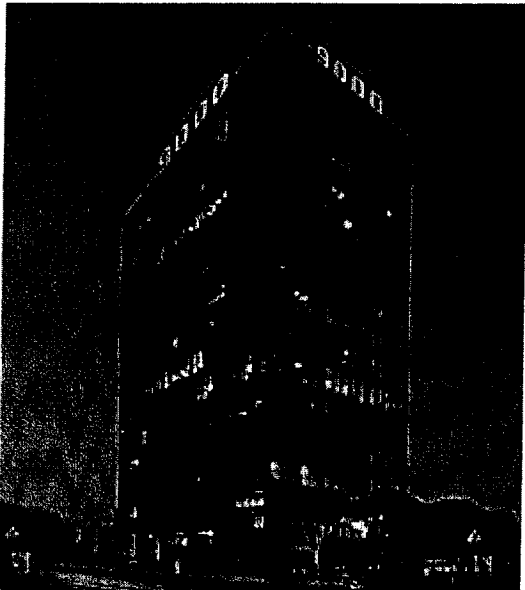


Bigger, Taller Tall Wall Granted - WeHo \$300k Richer

07/06/2009

Monday, July 6, 2009 - By WeHo News Staff, West Hollywood

West Hollywood, California (Monday, July 6, 2009) - The tallest building on the Sunset Strip, one that can be seen for miles around, the 9000 Building, might soon be sporting a new wardrobe - a 6,500 square foot tall wall ad, or one three times the size previously allowed - in exchange for the first-ever payment for a tall wall to the city treasury.



9000 Building at 9000 Sunset Boulevard. Photo courtesy 9000 Building. WeHo News.

The city's planning commissions voted to allow the new ad sheathing to cover 52 percent of the building's eastern face, several times that of the previously allowed 15 percent maximum for tall walls.

Additionally, the commission voted to permit the inevitable "substantial impairment of the aesthetic appeal of the building's architecture" due to the signage.

The new signage will be lit at night; the building already shows a lit 12-story billboard sign featuring HBO on its west face.

Staff described the benefits to the city as "considerable" when laying out the financial windfall the city should reap, especially given past decisions to allow tall walls without collecting a slice of the revenue stream they spawned.

The agreement provides an estimated \$300,000 in the first 48 months of contract, with \$10,000 per month in leases thereafter in perpetuity.

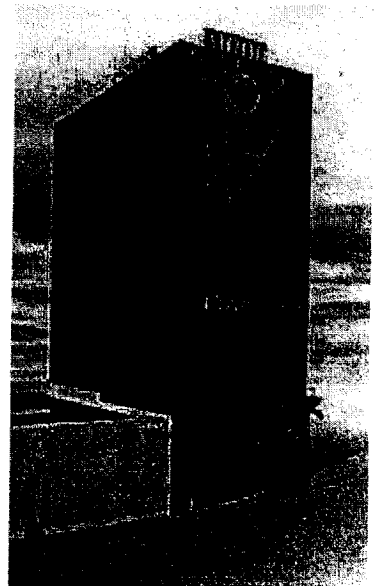
The city's Sunset Specific Plan originally named tall walls "creative billboards," that enhanced the "visual quality of the street and reduce the number of blank walls."

The original law led to many walls being swathed in advertising setting off a cross-country and even global race to catch up with the billboard-savvy Sunset Strip so that now "tall walls are no longer unique to Sunset Boulevard, and are widespread in greater Los Angeles.

"The widespread nature of this type of advertising has minimized this distinction once unique to West Hollywood," said the staff report.

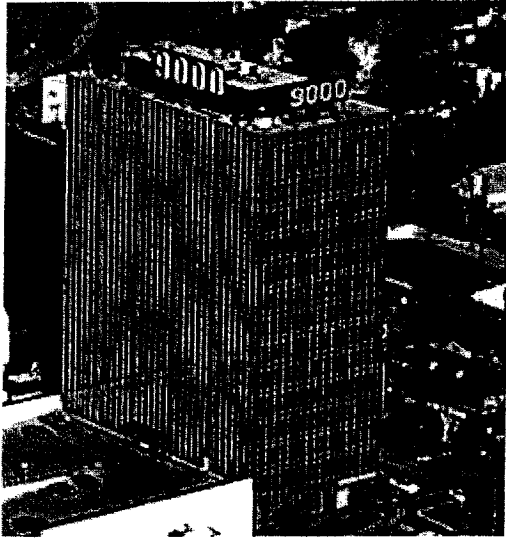
Joan Henehan, representing the WeHo Chamber of Commerce as chair, called the tall wall a "cutting edge style of advertising for the Sunset Strip."

She gave kudos to the building owners, Mani Brothers, as keeping "impeccable properties," while applauding the proposal.



Proposed tall wall for the 9000 Building at 9000 Sunset Boulevard. Photo courtesy 9000 Building. WeHo News.

On the other hand, a WeHo resident Harriet Siegel (former-planning commissioner and member of the Sunset Specific Plan Tall Wall Advisory Group that put together the city's ordinance) threw cold water on the proposal, pointing out that the city allowed tall walls in order to spruce up otherwise banal or uninteresting plain-fronted buildings.



9000 Building at 9000 Sunset Boulevard. Photo courtesy 9000 Building. WeHo News.

"The 9000 Building is unique - I think that's the fifth time [in this hearing that phrase] has been used," she said.

"The facade is faced with glass and steel and very inviting; the staff report agrees with this. It's called... a Sunset Strip landmark.

"Why would you put a shroud on a unique building," she asked?

The 9000 Building is Community advocate Jeanne Dobrin spoke out against the tall wall in public comments, saying that the city failed to do an Environmental Impact Report (EIR), "as required by CEQA (California Environmental Quality Act)," leaving the city open to legal challenge over allowing the change.

The attorney for Mani Bros. suggested that CEQA failed to encompass this proposal because they propose no modification to the structure, a point on which asst. city attorney Christi Hogin agreed.

"This project falls into the category of projects that is exempt from CEQA... this is an existing building, and we're just talking about adding some color," she said.

Ms. Dobrin asserted that the financial benefits to the city pale in comparison to the financial benefits that should accrue to the building's owners.

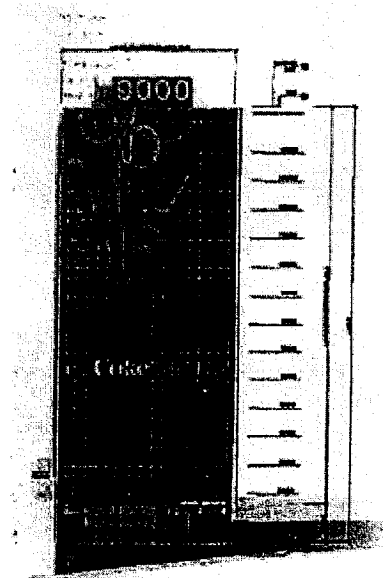
"I believe that these signs generate between \$45-50,000 per month," she said, a figure that falls well below the potential six-figure income actually realized by the tall walls.

Ms. Dobrin claimed that the reason for the development agreement was the city's attempt to recover some revenue from tall walls, which she said should have been voted into effect by citywide initiative rather than be determined on a case-by-case basis.

Commissioner Barbara Hamaker said she did not feel it appropriate to try to gain revenue from the tall walls, "I feel the Sunset Specific Plan and the city needs protecting... [and the payments] seem like a bribe to me."

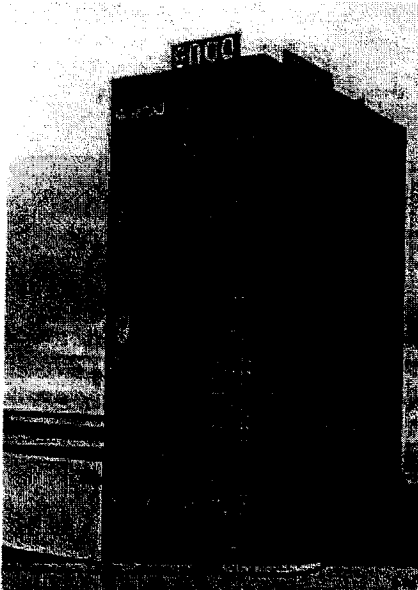
She projected that the amount of payments coming into the city's coffers, \$300,000, "is not money; if you look at any of the consent calendars, [\$300,000 is] not money," she said.

Ms. Hogin explained that, because the tall walls were first



Proposed tall wall for the 9000 Building at 9000 Sunset Boulevard. Photo courtesy 9000 Building. WeHo News.

expression-protected businesses, "the city cannot simply tax them, but we can say when and where they will go up. We can't get revenue from them, even though they are quite lucrative."



Proposed tall wall for the 9000 Building at 9000 Sunset Boulevard. Photo courtesy 9000 Building. WeHo News.

She said that the situation, in that it presented a wide diversion from the norm in size and impact, opened the way for the city to dip into the vast stream of cash flowing across the city's walls.

"In exchange for [increased coverage] we're getting this revenue," she said.

Commissioners threw concerns and kudos both at the proposal, expressing anxiety over the potential for precedent while acknowledging the remuneration promised the city.

At Commissioner Donald Deluccio's request, the lighting would be included in the approval process facing each new iteration of sign erected on the 9000 Building.

In the end the commission approved the adoption of the new sign's permit and the development agreement's move up to the City Council, where it will be considered for final approval.