March 16, 2016

Jerod Helt (A)(O)                      CASE NO. ZA 2015-1236(ZV)
Morning View Hotels – BH1, LLC        ZONE VARIANCE
9255 Sunset Boulevard,                  1224 South Beverwil Drive
Upper Penthouse                        West Los Angeles Planning Area
West Hollywood, CA  90069             Zone :  C4-1VL-O

Michael Tharp (R)                      D. M. :  132A167
Michael Tharp & Associates             C. D. :  5
5012 Onteora Way                       CEQA :  ENV-2015-1237-CE
Los Angeles, CA  90041                 Legal Description:  Lots 359 – 366,

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

a Variance from Section 14.4.10 of LAMC to utilize a total building wall sign area of
1,758 square feet consisting of two wall signs located on the westerly facade of an
existing 12-story building, in lieu of allowing a maximum sign area for the west
façade of 533 square feet in the C4-1VL-O Zone Classification,

upon the following additional terms and conditions:

1.  All other use, height and area regulations of the Municipal Code and all other
applicable government/regulatory agencies shall be strictly complied with in the
development and use of the property, except as such regulations are herein
specifically varied or required.

2.  The use and development of the property shall be in substantial conformance with
the plot plan submitted with the application and marked Exhibit "A", except as may
be revised as a result of this action.

3.  The authorized use shall be conducted at all times with due regard for the character
of the surrounding district, and the right is reserved to the Zoning Administrator to
impose additional corrective Conditions, if, in the Administrator's opinion, such
Conditions are proven necessary for the protection of persons in the neighborhood or
occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.

5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.

6. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

7. Approval of Plans Review. At any time during the effective period of this grant, should documented evidence be submitted showing continued violation of any condition of this grant, resulting in an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator reserves the right to require the applicant to file for a plan approval application together with associated fees, the purpose of which will be to hold a public hearing to review the applicant's compliance with and the effectiveness of these conditions. The applicant shall prepare a radius map and cause a notification to be mailed to all owners and occupants of properties within a 500-foot radius of the property, the Council Office, and the Los Angeles Police Department corresponding Division. The applicant shall also submit a summary and any supporting documentation of how compliance with each condition of this grant has been attained. Upon this review the Zoning Administrator may modify add or delete conditions, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes. (A standard used in the Office of Zoning Administration)

   a. The two wall signs shall not exceed a total of approximately 1,758 square feet and located on west facing wall.
   b. The grant shall not be used to allow a Supergraphic Sign as defined in Section 14.4.2. (Sign Definitions) of the Los Angeles Municipal Code.
   c. All messages displayed shall pertain to use of the subject site as opposed to an Off-Site Sign which is a sign that displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial message, which is generally
conducted, sold, manufactured, produced, offered or occurs elsewhere than on the premises where the sign is located. (Section 14.4.2, Sign Definitions)

d. The herein authorized wall signs shall not be lighted or illuminated.

9. To ensure compliance with the Municipal Code, a condition is imposed requiring a Master Sign Plan be reviewed and approved by the Department of Building and Safety.

10. **INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.**

Applicant shall do all of the following:

a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions or to claim personal property damage, including from inverse condemnation or any other constitutional claim.

b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages and/or settlement costs.

c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than $25,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).

d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement (b).

e. If the City determines it necessary to protect the City's interests, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the
applicant of any claim, action or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commission, committees, employees and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

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

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

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

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than $2,500 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

**APPEAL PERIOD – EFFECTIVE DATE**

The applicant’s attention is called to the fact that this variance is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then this variance shall be subject to revocation as provided in Section 12.27 of the Municipal Code. The Zoning Administrator’s determination in this matter will become effective after MARCH 31, 2016, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator’s action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at** [http://planning.lacity.org](http://planning.lacity.org). Public offices are located at:

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

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

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City’s decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

**NOTICE**

The applicant is further advised that subsequent contact regarding this determination must be with the Development Services Center. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.
FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the statements made at the public hearing on December 3, 2015, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the five requirements and prerequisites for granting a variance as enumerated in Section 562 of the City Charter and Section 12.27-B,1 of the Municipal Code have been established by the following facts:

BACKGROUND

The ownership of the project site consists of eight record lots with approximately 48,315.2 square feet of lot area. The project site itself is consists of seven lots, with two of lots having 110-feet of frontage along Beverwil Drive to the west and 133-feet along an alley to the south. The remaining five lots of the project site is located across the alley way. The site has 87 feet of frontage along Beverwil Drive to the west, approximately 260 feet of frontage along Pico Boulevard to the south, and 111 feet of frontage along Edris Drive to the east. The eighth lot of the ownership is located across the alley and has 50 feet of frontage along Edris Drive to the east. This site is zoned RD1.5-1-O and is currently constructing a five-unit residential condominium.

The project site is located within the West Los Angeles Community Plan. The five lots located along Pico Boulevard have a land use designation of Neighborhood Commercial and is zoned C4-1VL-O. The site is developed with a 12-story hotel. The lot located to the west across the alley has a land use designation of Medium Residential and is zoned RD1.5-1-O. The adjacent lot to the north has a land use designation of Low Residential and is zoned R1-1-O. These two lots are developed with a landscaped courtyard and parking for the hotel.

The subject hotel was constructed in 1965 and was designed in such a way that the façade of the building facing Pico Boulevard and the alley consists entirely of balconies for the guest rooms of the hotel. The eastern and western facades, facing Edris Drive and Beverwil Drive are relatively flat facades with minimal articulation for existing elevator shafts.

The site was issued a permit for the two wall signs; however, the Department of Building and Safety stated that the permits were issued in error due to the overall size of the signage and the permit was revoked. The Applicant is now seeking to permit two walls signs that exceed the square footage permitted on one wall face, but is below the total allowable signage permitted for the site. The Representative has indicated that previous signage which occupied the subject area advertised activities such as movie and/or television show cast parties and related events, book signings and sales, etc... Bevenwil Drive, a designated Collector Street, is dedicated to a width of 100 feet and is improve with sidewalk, landscaped area, street streets, curb, and gutter.
Pico Boulevard, a designated Major Highway – Class II, is dedicated to a width of 90 to 100-feet and is improved with sidewalk, landscaped area, street streets, curb, and gutter.

Edris Drive, a Local Street, is dedicated to a width of 60 feet and is improved with sidewalk, landscaped area, street streets, curb, and gutter.

Previous zoning related actions on the project site include:

**Case No. VTT-71884** - On March 7, 2013, the Deputy Advisory Agency approved Vesting Tentative Tract Map No. 71884 for a maximum of five unit condominium located at 1251 Edris Drive.

**Case No. ZA 2012-1376(ZAA)** - On March 7, 2013, the Zoning Administrator approved a Zoning Administrator's Adjustment to permit a reduced side yard of 5-feet in conjunction with the construction of a five unit condominium located at 1251 Edris Drive.

**Case No. ZA 2000-4227(CU)** - On March 31, 2001, the Zoning Administrator approved a Conditional Use to permit the construction, use, and maintenance of a wireless telecommunications facility on an existing 12-story hotel located at 1224 South Beverwil Drive.

**Case No. ZA 96-0443(CUZ)** - On August 15, 1996, the Zoning Administrator approved a Conditional Use to the permit the construction of a wireless telecommunications facility on an existing 12-story hotel located at 1224 South Beverwil Drive.

**PUBLIC HEARING**

On April 2, 2015, the applicant filed an application for a Variance from Section 14.4.10 of LAMC to utilize a total building wall sign area of 1,757.72 square feet to be located within two wall signs sited on the westerly side of an existing 12-story building, in lieu of allowing a maximum sign area at the following locations: an area of 532.96 square feet on the westerly side of the building, an area of 854.5 square feet on the southerly side of the building, and an area of 370.26 square feet on the easterly side of the building.

On November 5, 2015, approximately 373 notices of the public hearing were mailed to adjacent property owners/occupants and interested parties of which 15 were returned. The notice of the public hearing was posted on the subject site on November 18, 2015. Notice of Public Hearing described the project and requested governmental action. Interested parties were invited to attend the public hearing at which they could listen, ask questions, or present testimony regarding the application.

Prior to the public hearing, the following correspondence was received:

*November 23, 2105, South Robertson, Neighborhoods Council*

The South Robertson Neighborhoods Council (SORO NC) has reviewed the above referenced application for a Zone Variance to permit two on-site wall signs which will
have a maximum combined total area of 1,757.72 square feet. One sign is approximately 654 square feet in area and the other is approximately 1,104 square feet in area.

After careful review of the submission by the Applicant, SORO NC recommends approval of the Applicant's request for a Zone Variance that would allow placement of these two wall signs, as shown in plans submitted as part of the Application, subject to the following conditions:

1. The two signs will be located on the westerly side of the hotel building, facing Beverwil Drive;
2. The maximum area of the two signs will be limited to 1,757.72 square feet, with one sign being approximately 22' x 50' and the other being approximately 13' x 50';
3. No off-site signs will be permitted. The signs will be used to advertise or promote only matters that are occurring in or directly related to the hotel; and
4. The Applicant, its heirs and assigns, will appear before SORO NC, beginning 5 years after the date the approval of ZA-2015-1236-ZV first becomes effective and every 5 years thereafter, for a review by SORO NC of the Applicant's compliance with these conditions.

A public hearing was held December 3, 2015. The Zoning Administrator read the case into the record and took testimony from the following:

Michael Tharp, Michael Tharp & Associates, applicant representative: (Support)

- The Department of Building and Safety (DBS) permitted two signs which have been up for a year.
- DBS decided that the permits were issued in error.
- Three sides of the hotel facades cannot appropriately accommodate signage.
- The proposal is to use the westerly wall for the amount of signage that would be permitted on the other walls.
- No lighting for the sign is requested nor needed.

Hillary Mendelsohn, 1204 Beverly, resident (O)

- My name is Hillary Mendelsohn and I live directly adjacent to the Mr. C Hotel. I will be in attendance at the hearing and wanted to supply relevant photos. My street is residential and being the homeowner directly next door to the hotel has been challenging. I believe putting large advertisements on the Beverwil Drive side of the hotel will negatively impact my property value and quality as a resident. (via email, December 3, 2015)
- The prior signs were off-site messages (e.g., Wireless Telecommunication Facility company, Time Warner)
- There was no prior notice of the sign going up.
• The hotel will ask for lighting of the signs in the future.
• The new lighting that has been installed is purple and blue and is ambient lighting. The wall of the hotel had never been illuminated until the signs were erected; and the blue light reflects onto my property. I request the hotel turn the light off at midnight.

Guillaume Sutre, 1231 Edris Dr. resident, (Opposition):

• There are safety issues because the signage may take drivers’ attention from autos travelling east on Pico.
• What about parking on Edris for deliveries.
• There was an accident report on March 13, 2015 that crashed into the side of the hotel.

San Jagar, applicant and Hotel Manager, (Support)

• The accident was at 3:00 a.m. at a time the signs were not lit. Further, the accident was caused by excessive speed and not by distracting signs
• Operators will be instructed to not double park on Edris.
• I invite Mr. Sutre and all the other neighbors to advise me anytime there was an issue created by the hotel.

Steve Dodaro, 1004 S. Sherborne, General Manager of Resident Inn: (Support)

• Signage is for identification of the hotel.

At the conclusion of the public hearing, the Zoning Administrator "Took the Case Under Advisement until December 18, 2015. Subsequently, the following correspondence was submitted to the administrative record.

December 15, 2015, Michael Tharp, Michael Tharp & Associates, applicant representative: (Support)

Thank you for the opportunity to submit additional information regarding the Variance application submitted by Mr. C Hotel (the Applicant).

Background

On or about February 25, 2014 the City of Los Angeles Department of Building and Safety (LADBS) issued Building Permit No. 13048-10000-02861 for two on-site wall signs 20 feet wide by 43 feet high and 12 feet wide by 43 feet height, to be located on the westerly wall of Mr. C Hotel, located at 1224 Beverwil Drive, on the northeasterly corner of Beverwil Drive and Pico Boulevard. On or about March 18, 2014 the LADBS issued supplemental Building Permit No. 13048-10001-02861 to change the sign material from Cool mesh Building Wrap to 3M JJ35-20.
After the issuance of the Building Permit the Applicant placed signs on the building that conformed with the permits issued. Subsequently in February, 2015 the LADBS advised the Applicant it believed the combined area of both signs exceeded the allowable area permitted by the Los Angeles Municipal Code and made the determination that Building Permit No. 13048-10000-02861 and 13048-10001-02861 were issued in error and should be revoked if authorization for the signs was not received from the Los Angeles City Planning Department.

Applicant’s Representative (the Representative) contacted the Department of City Planning on February 12, 2015 to determine what authorization would be necessary to retain the signs. After conferring with Planning Department Staff (Staff), it was determined that an application for a Zone Variance should be filed seeking relief from LAMC Code Section 14.4.10 A.

An application for a Zone Variance (ZA-2015-1236-ZV) was filed on April 2, 2015. 2015 correspondence dated April 6, 2015 the LADBS sent Applicant advising that the Building Permits would be revoked. Applicant subsequently removed the signs in compliance with the notice of revocation and continued to pursue the Zone Variance.

Prior to the public hearing on ZA-2015-1236-ZV, the Applicant and its representatives appeared at the regularly scheduled meeting of the South of Robertson Neighborhood Councils (SORO) and presented the request for the Variance to allow placement of the two wall signs approximately 22' x 50' and 13' x 50' on the westerly side of the building. SORO sent a letter to the Office of Zoning Administration dated November 23, 2015, recommending approval of the requested variance, subject to the following conditions:

1. The two signs will be located on the westerly side of the hotel building, facing Beverwil Drive;
2. The maximum area of the two signs will be limited to 1,757.72 square feet, with one sign being approximately 22' x 50' and the other being approximately 13' x 50';
3. No off-site signs will be permitted. The signs will be used to advertise or promote only matters that are occurring in or directly related to the hotel; and
4. The Applicant, its heirs and assigns, will appear before SORO NC, beginning 5 years after the date the approval of ZA-2015-1236-ZV first becomes effective and every 5 years thereafter, for a review by SORO NC of the Applicant’s compliance with these conditions.

The Applicant has agreed to these conditions.

The public hearing on this matter was held on December 3, 2015. At the public hearing, in addition to the Applicant’s Representative, two neighbors testified. Hillary Mendelsohn, 1204 Beverwil Dr., raise issues regarding the previously erected signs being advertising; they were erected with no notice to her; the wall of the hotel had never been illuminated until the signs were erected; and that the blue light reflected
into her dwelling. She added that at her request, the hotel turned the light off at midnight.

The Applicant responded that the signs previously erected were not advertising. They were related to events or operations going on in the hotel. It was pointed out that the variance being requested was not for off-site signs displaying advertising but rather taking the allowable area of wall signs permitted by right on the three sides of the hotel and placing that area on the westerly side of the hotel. The Applicant also responded that it maintained open lines of communication with this and all other neighbors and was always willing to work with neighbors when they had issues. Ms. Mendelsohn concurred that there were open lines of communication.

Guillaume Sutre, 1231 Edris Drive, also spoke. He voiced concern that the signs might be distracting, causing a traffic hazard. He referred to a very bad traffic accident where a car speeding on Pico Boulevard had crashed into the side of the hotel. He also brought up that suppliers for the hotel sometimes double parked on Edris Drive when delivering material to the hotel, creating a safety hazard.

The Applicant responded that the accident had been caused by excessive speed and not by distracting signs. The signs on the hotel had never been illuminated and were not animated or moving in any fashion. The Applicant further added that he would speak to those making deliveries to the hotel to make sure they did not park on Edris Avenue illegally while making deliveries and that they would not create a safety hazard. He also invited Mr. Sutre and all the other neighbors to advise him anytime there was an issue created by the hotel.

Summary of Issues

The Applicant's request is solely for a variance from the City's Planning and Zoning Code to permit the calculation of the sign area on each side of the hotel that would be permitted by right and to locate two signs comprising the total area of signs that would be permitted onto the westerly side of the hotel. The Applicant is not requesting a Variance for off-site signs. The Applicant is not requesting animated or illuminated signs.

It should be remembered that the Applicant applied for and received permits from LADBS to place signs similar to those being requested in this Variance Application on the westerly side of the hotel, and when LADBS determined that it had made an error in issuing those building permits, the Applicant removed the signs in compliance with the order to revoke the permits, and filed for this Variance.

The Applicant also appeared before the South of Robertson Neighborhoods Council and received their recommendation for approval of the Variance request, and agreed to comply with SORO's recommended conditions of approval.
Conclusion

The Applicant respectfully requests that its application for a variance be approved. The Applicant has shown that strict application of the zone code would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations. The intent of the Zoning Code is to regulate and limit the size of wall signs on the building. It is impossible for the Applicant to locate signs on the southerly side of the building due to the placement of windows and balconies, which creates an unnecessary hardship on the Applicant which is inconsistent with the intent of the zoning regulations. The total area of the signs on the building would be limited to what is permitted by code. But the signs would be located on one side of the building only, rather than having smaller signs located on all three sides of the building.

There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity. The orientation of the building on the site makes it impossible to place wall signs on that portion of the building fronting Pico Blvd., designated as a Major Highway in the West Los Angeles Community Plan. Balconies from the rooms on the southerly side of the hotel prevent the placement of wall signs of the otherwise permitted size to be placed on that side of the building. Signs located on the easterly side of the building, adjacent to Edris Drive would be visible only to the single family residential dwelling units and would not serve their purpose of identifying the hotel and events happening therein.

The variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships is denied to the subject property. Many other properties in the same zone and vicinity have the ability to put wall signs on all sides of the building which front on adjacent streets. However, because of the orientation of the hotel to the single family residential dwellings on Edris Drive and because of the location of windows and balconies on the southerly side of the subject building, an important amenity for the guests of the hotel, the Applicant is limited to placing wall signs only on the westerly side of the building.

Granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the subject property is located. The area of wall signs requested by the Applicant is no greater than the area of wall signs permitted by right on the site. But because it is not desirable or practical to locate signs on the easterly side of the building and is impossible to locate signs on the southerly side of the building, the only reasonable alternative is to locate the entire permitted sign area on the westerly side of the building. The area of the wall signs is the same as would be permitted by right for signs located on all sides of the building. The impact of the wall signs is no greater than if the signs were located on all sides of the building.
The granting of the variance would not adversely affect any element of the General Plan. The site and the use on the site are unique. The use of the site as a hotel is in compliance with the uses allowed by the General Plan. The wall signs are permitted by the General Plan and the total area of the requested wall signs on the building equals that which would be permitted by the Zoning Code. Granting the variance to locate the otherwise permitted signs on one side of the building would have no adverse effect on any element of the General Plan.

For all these reasons the Applicant's request for a Variance from the LAMC should be granted."

After review and consideration of the entire administrative record and testimony, the Zoning Administrator "Approved" the request after finding justification for a deviation from strict application of the Zoning and Planning Code, as discussed in the Findings.

**ZONING ADMINISTRATOR COMMENTS**

During preparation of the Letter of Determination, the Zoning Administrator became concerned that the proposed sign is a "Supergraphic Sign". The administrative record includes a letter dated July 21, 2009 from the Fire Department allowing a sign using "cool mesh" materials. The intent of the letter was that the Fire Department recognized the flame spread index and smoke development index established by the 2006 Los Angeles Building Code to be suitable for out-door applications only. However, cool mesh is associated with a Supergraphic Sign.

On January 25, 2014, the Department of Building and Safety issued Permit No. 13048-10000-02861 for new onsite wall signs on the west façade of the building measuring 20'w X 43'h and 12'W X 43'H. On March 18, 2014, a supplemental building permit was issued permitting a change in the material for the signs from cool mesh. A December 1, 2015 letter from the Department of Building and Safety identified the material as "3MIJ35-20 Sticky Back Vinyl Sheet for temporary signs, special temporary displays, supergraphics, permanent wall signs and billboards." Again, a material associated with a Supergraphic Sign.

The Zoning Administrator's concern was presented to the applicant's representative who on January 7, 2016 submitted the following to the administrative record,

"Following up our phone conversation, you requested information differentiating the proposed wall signs on the westerly side of Mr. C's Hotel from a supergraphic sign.

§14.4.2 of the City of Los Angeles Planning and Zoning Code (the Code) defines a Supergraphic Sign as "A sign, consisting of an image projected onto a wall or printed on vinyl, mesh or other material with or without written text, supported and attached to a wall by an adhesive and/or by using stranded cable and eye-bolts and/or other materials or methods, and which does not comply with the following provisions of this Code: Sections 14.4.10; 14.4.16, 14.4.17; 14.4.18; and/or 14.4.20." (bold emphasis added)
The proposed signs do comply with §14.4.10 of the Code, which states: ...

The focus of the response should have been on the materials used and method of installation. Secondly, the conclusion that the proposed sign complies with the Code is inconsistent with the fact that the application is for a Variance to deviate from the Code.

Thus, it is essential to clarify that in Section 14.4.2. (Sign Definitions) the Los Angeles Municipal Code defines a Supergraphic sign as, "A sign, consisting of an image projected onto a wall or printed on vinyl, mesh or other material with or without written text, supported and attached to a wall by an adhesive and/or by using stranded cable and eye-bolts and/or other materials or methods, ..." Further, Section 14.4.4-J states, "Relief. Notwithstanding the provisions of Sections 12.24, 12.27, 12.28 or any other section of this Code to the contrary, no relief from the provisions of Subsection B.9. or 11. of this section shall be granted. (Added by Ord. No. 180,841, Eff. 8/14/09.)"

In conclusion, a Zoning Administrator does not have the authority to grant a Variance for a Supergraphic sign. Therefore, affirmative Findings have been made for approval of wall signs and conditions are imposed to ensure the wall sign is not a Supergraphic Sign nor off-site sign.

MANDATED FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 and Municipal Code Section 12.27 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

The applicant initially requested a Variance to allow two wall signs with a total of 1,600 square feet of sign area to be located on the western façade, facing Beverwil Drive, in lieu of the permitted 834.36 square feet of sign area. The request was revised to 1,757.72 square feet.

Provisions of the Zoning Code with respect to signage are intended to promote orderly sign programs and to discourage clutter or the proliferation of overly obtrusive signs. Such regulations, however, are written on a citywide basis and cannot take into account individual unique characteristics of a specific property as well as consider dynamic changes in the economy and the use of land. A Variance is a grant of permission to depart from the literal enforcement of a zoning ordinance and allow the property to be used in a manner otherwise not permitted provided that the spirit of the ordinance is observed and substantial justice is done without detrimental impacts to the community. An applicant seeking a Variance bears the burden of proving that circumstances exist to justify its granting.
The applicant states, the project site has frontage along three streets which allows sign area totally 1,757.72 square feet based on three street frontages. While the Zoning Code would require that the sign area be distributed along each of the street frontage, the existing conditions of the building would result in practical difficulties. The project site is developed with a 12-story hotel constructed in 1965. Due to the linear design of the hotel, the facades facing Pico Boulevard to the south and the alley to the north were designed with balconies for the guest room. The design of the building's façades limit the ability to place wall signs on these elevations. However, the western façade, facing Beverwil Drive, and eastern façade facing Edris Drive are primarily flat facades, allowing for greater flexibility in the placement of the wall signs.

The Zoning Administrator agrees with the applicant's justification that it's impossible to locate signs on the southerly side of the building due to the placement of windows and balconies and the optimal location for visibility is placement on the west façade.

In granting a Variance, the total area of the signs on the building would be limited to what is permitted by Code. However, the signs would be located on west façade of the building, rather than a clutter of smaller signs located on three sides of the building.

In view of the foregoing, strict application of the sign regulations would result in practical difficulties that hamper the applicant from appropriately announcing the existing use on the site and would create unnecessary sign clutter.

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

The Variance "special circumstances" Finding is the second prong of the analysis. Standard factors for special circumstances are physical characteristics of the property, such as size, shape, topography, location, or surrounding. Further, the Finding requires distinguishing the property from other properties in the same zone and vicinity.

The project site is developed with a 12-story hotel building. While the ground floor of the hotel has minimal windows or architectural treatment, there is existing landscape which has been planted to cover portions of the ground floor façade along Pico Boulevard. The southern elevation along Pico Boulevard has been developed primarily with balconies for the guest rooms on the upper stories of the hotel. As such, there is limited area to place a wall sign along the southern elevation.

The subject site is located within a commercial corridor in the C4 Zone Classification and has special circumstances that generally do not apply to other properties. The orientation of the building on the site and its design makes it impossible to place wall signs on that portion of the building fronting Pico Boulevard, designated as a Major Highway in the West Los Angeles Community Plan. This is because room
balconies are on the southerly side of the hotel which prevent the placement of wall signs. Signs located on the easterly side of the building, adjacent to Edris Drive would have limited visibility and not serve the applicant's purpose of identifying the hotel and events happening therein.

Granting the Zone Variance will permit on-site signs to be placed on the west facing wall exceeding the size limitation of based on using only one street frontage. However, the sign total will not exceed the amount allowed by Code when measuring three street frontages.

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

The third prong of a Variance is to establish that an approval is necessary to bring the property owner into parity with other properties in the same zone and vicinity. A Variance cannot grant the property owner a special privilege.

In regards to Finding No. 3, the applicant stated, "[a]lthough the project site has frontage along three streets, the design of the existing building restricts the ability of the Applicant to place signage along each of the elevations which front a street. Other properties located along Pico Boulevard would be permitted to place signage along Pico Boulevard and would be permitted to place signage along the western or eastern façade of the building if located on a corner lot. However, as the southern elevation along Pico Boulevard is developed primarily with balconies, the Applicant is unable to utilize the elevation along Pico Boulevard for signage as other properties would be allowed to."

The record before the Zoning Administrator does not evidence the granting of similar deviations from the Code in the immediate area. However, other properties with similar circumstances would be given similar consideration. Yet, it is noted that past grants or denial of Variances for other properties in the area does not mandate similar action on the part of the decision-maker.

4. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

The permitted sign area for the project site is 1,757.72 square feet. Although the signage would be located only on the western elevation of the hotel and would exceed the sign area permitted for that elevation. However, it would not exceed the maximum permitted sign area for the site.

Several concerns were raised by the public which the applicant has responded to in their December 15, 2015 letter. Also, the Zoning Administrator raised a concern
regarding authority to grant deviations in a Supergraphic Sign which is addressed by imposing limiting conditions.

The discretionary process has been used to balance the property owner’s need for a legible, readable, and visible signage with the interest of the City to ensure signs do not interfere with traffic safety or otherwise endanger public safety. Also, the process was used to protect the visual environment by reducing a clutter of signage. Both the public and sign users will benefit from the signs identifying the use in a legible, easily readable, and very visible manner. Use of the approved sign equalizes the opportunity for messages to be displayed in a similar manner as other properties within the commercial corridor.

Lastly, to ensure compliance with the Municipal Code, a condition is imposed requiring a Master Sign Plan be reviewed and approved by the Department of Building and Safety (DBS). DBS will ensure all signs conform to regulations in Article 4.4. (Sign Regulations) of the Los Angeles Municipal Code which provide reasonable protection to the visual environment by controlling the size, height, spacing and location of signs. Further, DBS will ensure that the proposed sign is not a Supergraphic Sign nor an off-site sign.

In conclusion, granting of the Variance to allow the wall sign at its proposed size will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity.

5. The granting of the variance will not adversely affect any element of the General Plan.

The project site is located within the West Los Angeles Community Plan. The five lots located along Pico Boulevard have a land use designation of Neighborhood Commercial and zoned C4-1VL-O. The General Plan implements the City’s vision through its goals, policies, and implementation measures outlined in eleven elements of the General Plan. Consistency with and within the General Plan is one of the most important considerations related to the General Plan. In 1972, the California Legislature enacted the law requiring that development projects must be consistent with the local General Plan and also mandated consistency among the contents of the General Plan.

Language within the West Los Angeles City Community Plan specific to the proposed use states:

- Proliferation of out-of-scale signs including billboards, wall signs, and flashing signs. *(COMMERCIAL, Issues)*

- Through the Westwood - Pico Neighborhood Overlay District, establishment of appropriate neighborhood and pedestrian-oriented land uses, building intensity, lot coverage, setbacks, landscaping, signage controls, design and parking requirements for Westwood Boulevard and Pico Boulevard in the
vicinity of the Westside Pavilion. *(COMMERCIAL, Opportunities)* *(bold added for emphasis)*

- Objective 2-3 To enhance the appearance of commercial districts.

**Policies**

2-3.1 Establish street identity and character through appropriate **sign control**, landscaping and streetscape improvements; and require that new development be compatible with the scale of adjacent neighborhoods. *(bold added for emphasis)*

- Provide improvements along principal streets, and at major identified intersections and edges which clearly distinguish these as major entries to the community. Such improvements may include elements such as **signage**, landscaping, vertical pylons and/or other distinctive treatments. *(ENTRYWAY IMPROVEMENTS)* *(bold added for emphasis)*

**COMMUNITY DESIGN AND LANDSCAPING GUIDELINES, SIGNAGE**

1. Establish a consistent design for all public signage, including fixture type, lettering, colors, symbols, and logos designed for specific areas or pathways.
2. Provide for distinctive signage which identifies principal entries to unique neighborhoods, historic structures and districts and public buildings and parks.
3. Ensure that public signage complements, and does not detract from adjacent commercial and residential uses.
4. Provide for signage which uniquely identifies and enhances designated historic sites and districts

The building has three street frontages. Each street elevation is permitted a wall sign. The total sign area permitted for the site would be 1,757.72 square feet but will be placed only on the west façade. As discussed in Finding No. 4, the public and sign users will benefit from the sign identifying a use in a legible, easily readable, and very visible manner and equalizes the opportunity for messages to be displayed in a similar manner as other properties within the commercial corridor.

In conclusion, the signage will not hamper the Community Plan which is intended to enhance the viability of existing business potentially improving its economic viability; whereby, contributing to the surrounding commercial vitality as a whole.

**ADDITIONAL MANDATORY FINDINGS**

6. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.
7. On March 16, 2015, the subject project was issued a Notice of Exemption (Subsection c, Section 2, Article II, City CEQA Guidelines), log reference ENV-2015-1237-CE, for a Categorical Exemption, Class 11, Category 1. Article III, Section 1, City CEQA Guidelines (Sections 15300-15333, State CEQA Guidelines). I hereby adopt that action.

Inquiries regarding this matter shall be directed to Arely Monarez, Planning Staff for the Office of Zoning Administration at (213) 978-1321.

David S. Weintraub
Associate Zoning Administrator

cc: Councilmember Paul Koretz
    Fifth District
    Adjoining Property Owners