

350 Ellis Owner LLC
c/o TMG Partners R.E. LLC
1 Post Street, Suite 3300
San Francisco, CA 94104

August 13, 2024

Amber Blizinski
Assistant Community Development Director and Zoning Administrator
City of Mountain View
City Hall, First Floor
500 Castro Street
Mountain View, CA 94041

RE: Request for Extension of Planned Community Permit and Development Review
Permit PL-2022-147

Ms. Blizinski,

350 Ellis Owner LLC (“Owner”) requests a two-year extension to the Planned Community Permit and Development Review Permit PL-2022-147, approved on January 25, 2023 (the “Permit”). The Permit modified the previously approved Transit-Oriented Development Permit and Design Review Permit (394-99-TOD) to authorize minor site, building, and façade modifications, including modifications to interior and exterior publicly accessible areas, landscaping improvements, and rooftop amenity spaces, at an existing office campus located at 350 Ellis Street (APNs 160-53-015 and 160-53-016).

Pursuant to Condition of Approval No. 1 and City Zoning Code section 36.56.65(a), the Permit is valid for two years from the date of approval and is therefore set to expire on January 25, 2025. However, under Zoning Code section 36.56.65(b) and Condition of Approval No. 3, the Zoning Administrator may extend the Permit for an additional two years from the original expiration date if the Zoning Administrator determines the permittee has proceeded in good faith and has exercised due diligence in complying with the permit conditions during the initial two-year term.

As a result of ongoing uncertainty in the office market, Owner has been unable to proceed with construction of the modifications authorized by the Permit. Nonetheless, Owner has proceeded in good faith and has exercised due diligence in complying with the Permit conditions since it was originally approved. For example, Owner has amended the Original Covenant to create a New Covenant (both defined in the Permit), which modifies publicly accessible space within the site to include additional upgraded landscape, trellis, and plaza areas along Ellis Street, new pedestrian pathways, new outdoor seating, and other improvements for public use and enjoyment around the bistro café and dining area, and a modified plaza and commons area, in accordance with Condition of Approval No. 15. Owner has submitted the New Covenant to the City Attorney for review and approval, after which time it will be recorded and run with the land, provided the improvements are pursued to completion in accordance with Condition of Approval No. 2. Additionally, Owner submitted two building permits, BLDG24-5330 (Café + Public Realm) and BLDG24-5331 (Master Plan Fitness + Roof Deck), to the City of Mountain

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View Building Department on June 13, 2024. The building permits currently are under review by the City.

Notably, Condition of Approval No. 15 requires that the New Covenant be recorded prior to the issuance of the first building permit that contains the improvements associated with the publicly accessible areas. Further, pursuant to Condition of Approval No. 2, these improvements must be contained within one building permit, with all construction completed and final occupancy approved prior to granting occupancy on any other improvements proposed under a separate building permit.

In effect, Condition of Approval Nos. 2 and 15 require that the New Covenant be recorded prior to Owner completing any work authorized by the Permit. However, to “use” the Permit within its original term, the City’s Zoning Code requires the permittee to both obtain a building permit and commence construction in compliance with the conditions of approval. Thus, Owner is requesting extension to the permit for the following reasons:

- 1) Permit Processing Time & Covenant Recording Time: Owner understands the timeline for obtaining building permits in the City may take several months and, further, that the building permit cannot be issued until the New Covenant is recorded; thus, it is highly unlikely Owner will be able to obtain approved building permits and commence construction prior to the Permit’s expiration date.
- 2) Construction Contracts & Financing: Owner will need time after permits are approved to get contractor pricing, negotiate contracts, and obtain construction financing approvals prior to commencing construction.
- 3) Future Deferred Private Scopes: There are several private (non-public realm) scopes of work that need to be deferred to the future due to current campus vacancy and are not included in the building permits currently submitted. These scopes include two roof decks, a rear building exterior entrance canopy, a rear building landscape improvement, and landscape area at the northeast end of the property. To clarify, and in compliance with Condition of Approval No. 2, the current building permits include construction of all publicly accessible spaces, and it is only a few private spaces that will be contemplated in future building permits.

Accordingly, Owner requests that the Zoning Administrator approve an extension to the Permit to provide two additional years to “use” the Permit. Owner will continue to diligently process the New Covenant with the City Attorney and process the building permits with the Building Department so that it can “use” the Permit prior to the new expiration date.

Sincerely,



Patrick McCarthy

TMG Partners R.E. LLC

On behalf of 350 Ellis Owner LLC