

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF SIERRA MADRE AND
THE CONGREGATION OF THE PASSION, MATER DOLOROSA COMMUNITY,
REGARDING THE ADMINISTRATION OF PROCEEDINGS TO ADOPT A SPECIFIC
PLAN AND DEVELOPMENT AGREEMENT AND AMEND THE GENERAL PLAN
AND CORRESPONDING LAND USE MAP AND ZONING CODE AND
CORRESPONDING ZONING MAP FOR THE
PROPOSED CONSTRUCTION OF SINGLE-FAMILY RESIDENCES AT
700 NORTH SUNNYSIDE AVENUE, SIERRA MADRE, CALIFORNIA 91024**

This MEMORANDUM OF UNDERSTANDING (“MOU”) will facilitate the administration of the Proceedings, discussed below, and will not dictate a substantive outcome regarding the Proceedings or the Applicant’s Project. This MOU grants the Applicant procedural rights. It does not grant any planning or land use entitlements.

This MOU is made this 28th day of April 2020 by and between the City of Sierra Madre, a California municipal corporation (“City”), and The Congregation of the Passion, Mater Dolorosa Community, a California charitable corporation (“Applicant”). Each may be referred to individually as “Party” or collectively as “Parties.”

RECITALS

WHEREAS, the Applicant owns the property located at 700 North Sunnyside Avenue, Sierra Madre, CA 91024, Assessor’s ID No. 5761-002-008 (“Property”), consisting of approximately 40 acres and more specifically described in Attachment A (“Property Description”);

WHEREAS, the Property is designated an “Institutional” use in the General Plan Land Use Map and Zoning Map, which does not permit the construction of single-family homes or other stand-alone residential uses;

WHEREAS, Applicant desires to develop the Property by constructing up to 42 single-family detached residential units (“Project”) in a configuration substantially similar to that illustrated in Attachment B (“Project Configuration”);

WHEREAS, the City Council believes the development of single-family detached residential units may be the most compatible use of the Property and is willing to

consider homes in excess of standard measurements in exchange for ensuring that single-family units are created;

WHEREAS, the construction of single-family detached residential units will assist the City in satisfying its Regional Housing Needs Allocation;

WHEREAS, the Project will require the Applicant to seek City approval of a Specific Plan, General Plan and Land Use Map Amendment, Zoning Code and Map Amendment, and Development Agreement, including related California Environmental Quality Act ("CEQA") approvals (collectively, the "Proceedings"); and

WHEREAS, the Parties desire to enter into this MOU to identify the obligations of each Party with respect to the Proceedings and the consideration of the Project.

NOW, THEREFORE, in consideration of the covenants, conditions and promises contained herein, the Parties mutually agree as follows:

1. Recitals. All of the foregoing recitals are true and correct and incorporated herein.
2. Term. This MOU will take effect upon the date first written above ("Effective Date") and shall remain in effect until the Proceedings are complete and the City has issued Applicant a Final Decision. For purposes of this Section 2, "Final Decision" shall mean a determination by the City Council regarding the adoption of a Specific Plan and Development Agreement, the amendment of the General Plan and corresponding Land Use Map and Zoning Code and corresponding Zoning Map, and the certification of an Environmental Impact Report ("EIR").
3. CEQA. The Parties agree and acknowledge that compliance with the CEQA, and related state and local laws, is required as part of the Proceedings and that an EIR or other analysis under CEQA will be required for such compliance. Any development concept discussed in this MOU, any amendment hereto, or any subsequent agreement is preliminary and subject to change as a result of the analysis contained in the EIR. The City's consideration of this proposal and its entrance into this MOU reflects the City's agreement only to consider, not to approve, the Project and in no way precludes the City's consideration of alternatives to the proposed Project, including a no-action alternative whereby all proposed development would

be denied, as well as approval of one of any number of alternative proposals that entail greater or lesser density or different land uses.

4. Applicant's Obligations. Applicant agrees to the following:
 - a. Application. To submit applications for the adoption of a Specific Plan and the amendment of the General Plan and corresponding Land Use Map and Zoning Code and corresponding Zoning Map and to pay all requisite application fees upon submittal.
 - b. Consultant Deposits. To deposit a sum into the Trust Account equal to 100% of the contract price of the City's CEQA Consultant and Specific Plan Consultant by August 15, 2020 and to fund 100% of all change orders within 30 days from execution.
 - c. Application Deposits. To deposit \$20,000 into the Trust Account within 30 days of the execution of this MOU. The Applicant will deposit an additional \$50,000 into the Trust Account by August 15, 2020. Thereafter, the Applicant will deposit an additional \$15,000 within 30 days of receiving notice from the City that the Trust Account balance is at or below \$10,000.
 - d. CEQA. To prepare an EIR and complete any required technical studies or analyses, which include, but are not limited to, the following:
 - i. Historical Resources Technical Report
 - ii. Arborist Report and Tree Inventory Summary
 - iii. Traffic Impact Study
 - iv. Hydrology and Water Quality Study
 - v. Utilities and Services System Study
 - vi. Greenhouse Gas Study
 - e. Dedicated Open Space. Consistent with and subject to the terms of the Final Decision, to dedicate to the City open space hillside land north of the existing retreat center ("Dedicated Open Space").
 - f. Dedicated Park. Consistent with and subject to the terms of the Final Decision, to set aside within the Project area, develop or cause to be developed, and dedicate to the City a public park between 3 and 3.5 acres in size ("Dedicated Park"), in the configuration more

particularly described in Attachment B, with design and functionality subject to negotiation by the Parties and approval by Applicant.

- g. Street Improvement. To negotiate with Los Angeles County to secure sufficient approvals to improve, to the satisfaction of the County Engineer, West Carter Avenue between North Lima Street and the gate of the Property, as more particularly described in Attachment C (“Street Improvements”).
 - h. Net Zero. To ensure the Project has a net zero water impact through the establishment of a fund that will pay for retrofitting of water efficient features in older homes in the City (e.g., low flush toilets and low flow showers).
 - i. Utilities. To underground all utilities in consultation with the City’s Department of Planning and Community Preservation.
5. City’s Obligation. City agrees to the following:
- a. CEQA Consultant. To contract with a qualified, independent, third-party consultant, at the Applicant’s sole cost and expense, for the purpose of reviewing an EIR.
 - b. Specific Plan Consultant. To contract with a qualified, independent, third-party consultant, at the applicant’s sole cost and expense, for the purpose of reviewing a Specific Plan.
 - c. Workshops. To organize and lead two public workshops during which the Applicant will present the Project and the City will answer any questions regarding the Sierra Madre Municipal Code or the processes related to the Proceedings or this MOU.
 - d. Fees. To freeze all development impact fees, connection and capacity charges, and any other fees or charges associated with the Project, if approved, as of the date the Applicant submits a complete preliminary application.
 - e. Planning Staff. To provide a dedicated member of planning staff to be a single point of contact to assist in processing Project-related permit applications.

- f. Community Facilities District. To consider an application to form, in accordance with all existing City policies and requirements, a community facilities district (“CFD”) or like district encompassing the Property for the purpose of long-term maintenance of the Dedicated Park, the adjacent Bailey Canyon Park and Parking Area, and the Dedicated Open Space.
 - g. Trust Account. To create a “Trust Account” to segregate funds related to the Proceedings and to use funds placed in that account solely for costs arising from the Proceedings. The City will notify the Applicant in writing whenever the balance of the Trust Account is \$10,000 or less. Any sum remaining in the Trust Account after the Final Decision or termination will be refunded to the Applicant within 30 days.
6. Development Agreement. Parties agree to negotiate in good faith a development agreement that may vary development standards to accommodate the Project, outline a construction timeline, provide for the formation of the CFD, and otherwise incorporate the intended community benefits and related Applicant and City obligations, as stated herein and as may be modified after CEQA review or upon further negotiation of the Parties.
7. Timeline. Parties agree to exercise commercially reasonable efforts to satisfy their respective obligations by the dates outlined in Attachment D (“Proceeding Timeline”). The Parties further agree that the Proceeding Timeline may require reasonable adjustment during the duration of the COVID-19 pandemic-related local emergency.
8. Remedies. Parties agree that damages are not an adequate remedy for any breach of this MOU and are not available if either Party breaches this MOU. Parties agree that specific performance, writ of mandate for performance of a required act, or termination, shall be the sole available and appropriate remedy for either Party under this MOU. Further, all Parties agree that failure of the City to approve the Proceedings or Project, failure by the Parties to enter into a subsequent development agreement or failure to abide by the deadlines in the Timeline is not a breach of this MOU.
9. Amendments. This MOU constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes any previous agreements, oral or written. This MOU may be amended only by

subsequent mutual written agreement and will not be effective until signed by the Parties. The obligations in this MOU are personal to each Party and no assignment by any Party is permitted without the express written permission of the other Party.

10. Termination. This MOU may only be terminated upon a material breach of an obligation under this MOU. Before termination, the non-breaching Party must give the breaching Party notice of the alleged breach and an opportunity to cure within 30 days of receipt of the notice. If the breaching Party fails to cure, the non-breaching Party may elect to terminate the MOU.
11. California Law. This MOU shall be construed in accordance with the laws of the State of California. Any action commenced related to this MOU shall be filed in Los Angeles Superior Court. This MOU shall be construed as though jointly drafted by the Parties with the assistance of independent legal counsel.
12. Indemnification. The Applicant shall defend, indemnify and hold harmless the City and its agents, officers and employees from and against all claims, costs, penalties, causes of action, demands, losses and liability of any nature, whatsoever, caused by or arising out of or related to any alleged negligent act or omission of the City, its officers or employees or any other agent acting pursuant to the City's control arising from, related to, or regarding this MOU or the Project.
13. Waiver. The waiver by the Parties of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this MOU shall be deemed to have been waived by the Parties unless in writing signed by one authorized to bind the party to be charged with the waiver.
14. Severance. Should a provision of this MOU be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.
15. Counterparts. This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument

16. Notices. All notices shall be personally delivered or mailed, via first-class mail and emailed to the below listed addresses:

CITY OF SIERRA MADRE

Gabe Engeland
City Manager
City of Sierra Mare
232 W. Sierra Madre Blvd.,
Sierra Madre, CA 91024
gengeland@cityofsierramadre.com

Courtesy Copy to:
Aleks R. Giragosian
Assistant City Attorney
Colantuono, Highsmith & Whatley, PC
790 East Colorado Blvd., Suite 850
Pasadena, California 91101
AGiragosian@chwlaw.us

THE CONGREGATION OF THE
PASSION, MATER DOLOROSA
COMMUNITY

Keith A. Zekind
Director of Finance/Assistant Treasurer
Executive Director of Development
The Passionist of Holy Cross Province
660 Busse Highway
Park Ridge, IL 60068
Keith@cppo.org

Courtesy Copy to:
Gregory M. Murphy
444 South Flower Street, Suite 2400
Los Angeles, California 90071
gmurphy@bwslaw.com

IN WITNESS WHEREOF, the Parties execute this MOU through their authorized officers on the dates shown below.

CITY OF SIERRA MADRE

THE CONGREGATION OF THE
PASSION, MATER DOLOROSA
COMMUNITY

Gabe Engeland, City Manager

Keith A. Zekind, Director of
Finance/Assistant Treasurer

Date

Date

APPROVED AS TO FORM

APPROVED AS TO FORM

Aleks R. Giragosian, Assistant City
Attorney

Gregory M. Murphy, Esq.

Date

Date

ATTACHMENT A
PROPERTY DESCRIPTION

Real property in the City of Sierra Madre, County of Los Angeles, State of California, described as follows:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND OF LOT ONE (1) OF SAID SECTION SEVENTEEN (17) AND THAT PORTION OF LOTS NINETEEN (19) AND TWENTY (20) OF THE SIERRA MADRE TRACT, IN THE CITY OF SIERRA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 4, PAGES 502 AND 503, MISCELLANEOUS RECORDS OF SAID COUNTY, DESCRIBED AS PARCEL 4, IN THE DEED RECORDED IN BOOK 3051 PAGE 305, OFFICIAL RECORDS.

EXCEPT ALL THAT PORTION OF SAID PARCEL 4, LYING EASTERLY AND NORTHEASTERLY OF THE WESTERLY, NORTHWESTERLY AND SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 140, IN THE FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 49004, PAGE 198, OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPT THAT PORTION OF SAID PARCEL 4, INCLUDED IN THE LAND DESCRIBED IN QUITCLAIM DEED TO THE CITY OF SIERRA MADRE, RECORDED ON DECEMBER 20, 1968, AS INSTRUMENT NO. 3356, IN BOOK D4230 PAGE 892 OF OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPTING THAT PORTION OF SAID PARCEL 4, DESCRIBED AS PARCEL NO. P-6F (FEE) IN THE DEED RECORDED FEBRUARY 15, 2001, AS INSTRUMENT NO. 01-0260705, OFFICIAL RECORDS OF SAID COUNTY.

APN: 5761-002-008

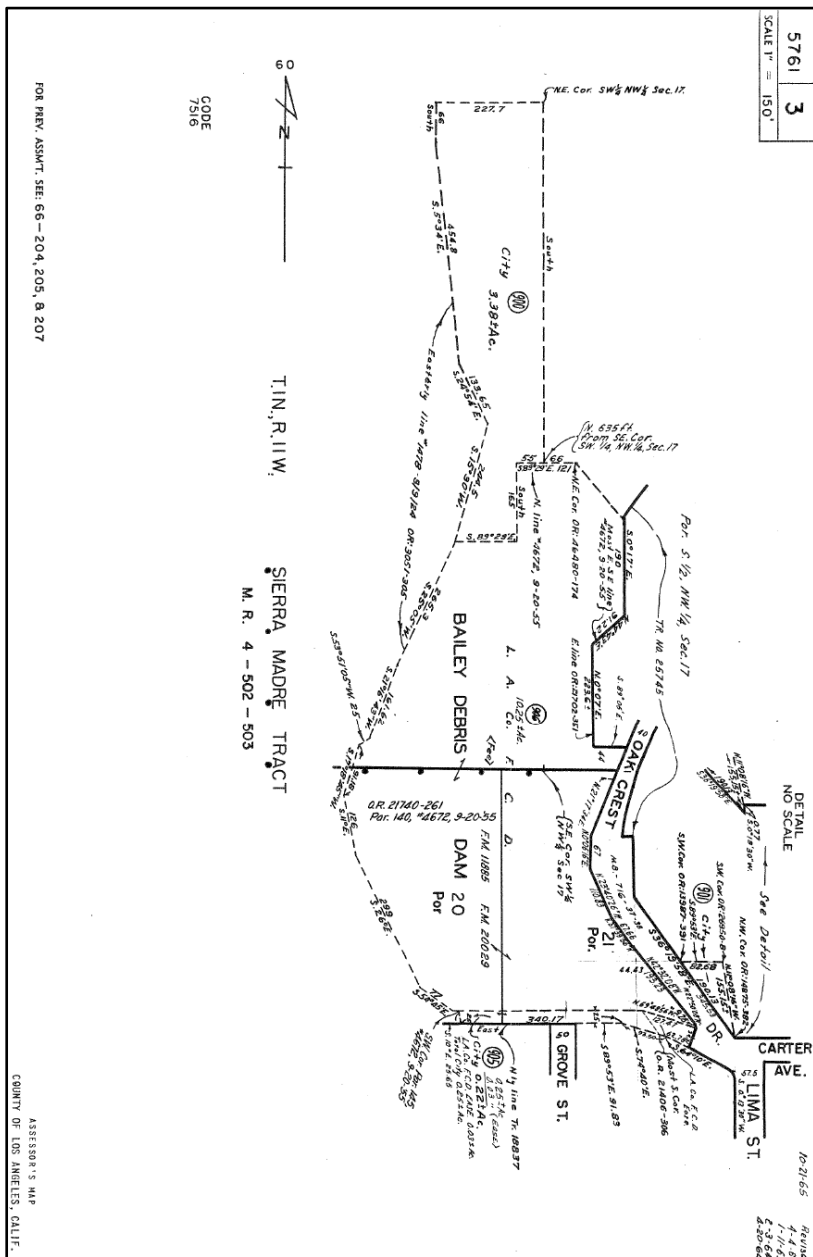
ATTACHMENT B
PROJECT CONFIGURATION

EXHIBIT B - PROJECT CONFIGURATION



LEGEND	PARK	HOUSING	SLOPED AREA	20' BUFFER	STREETS

ATTACHMENT C STREET IMPROVEMENTS



ATTACHMENT D
PROCEEDING TIMELINE

Date	Action
April 28, 2020	City Council considers a resolution adopting this MOU
Within 30 days of Effective Date	Deadline for Applicant to deposit \$20,000 in Trust Account
June 9, 2020	Deadline for City Council to contract with EIR and Specific Plan Consultant
June 30, 2020	Deadline for City to circulate a Notice of Preparation of EIR
June 30, 2020	Deadline for City to organize First Public Workshop
July 15, 2020	Deadline for City to organize Second Public Workshop
August 15, 2020	Deadline for Applicant to deposit a sum equal to 100% of the contract price of the City's CEQA Consultant and Specific Plan Consultant and an additional \$50,000 in Trust Account
September 16, 2020	Deadline for Applicant to submit an administrative draft EIR
September 16, 2020	Deadline for Applicant to submit a draft Specific Plan
October 1, 2020	Deadline for City to circulate draft EIR and hold scoping meeting
October 1, 2020	Deadline for City to review draft Specific Plan
January 29, 2021	Deadline to publish final EIR
March 18, 2021	Deadline to hold Planning Commission public hearing
April 30, 2021	Deadline to hold City Council public hearing