TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER
DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT
DATE: OCTOBER 10, 2006
CMR: 383:06
SUBJECT: ADOPTION OF AN ORDINANCE AMENDING A PLANNED COMMUNITY (PC) ZONE AT 850 WEBSTER STREET (CHANNING HOUSE) TO ALLOW CONSTRUCTION OF A SENIOR RESIDENTIAL HEALTH CARE BUILDING AND UNDERGROUND GARAGE, INCLUDING A VARIANCE FOR DAYLIGHT PLANE ENCROACHMENTS AND APPROVAL OF A NEGATIVE DECLARATION FOR THE PROJECT, AND ADOPTION OF A RESOLUTION OF APPROVAL OF ARCHITECTURAL REVIEW FINDINGS WITH CONDITIONS.

RECOMMENDATION
The Planning and Transportation Commission (Commission), Architectural Review Board (ARB) and staff recommend that the City Council:

1. Approve the Negative Declaration as revised (Attachment G);
2. Adopt the Planned Community Ordinance (Attachment A), which will:
   a. amend the existing PC zone for 850 Webster Avenue, allowing the construction of a two-story, 32,185 square foot health care building providing 53 beds for skilled nursing and assisted living residents and associated spaces for staff and residents, above a 16,437 square foot underground garage providing service functions and parking spaces for 37 vehicles and 22 bicycles;
   b. make findings for and grant a variance for exceptions to the special PC daylight planes set forth in PAMC 18.68.150(e) for second floor encroachments into the west and south side daylight planes; and
   c. formally approve the Negative Declaration.
3. Adopt the Resolution (Attachment B) containing architectural review findings and conditions of approval.
BACKGROUND
As noted in its Development Program Statement (Attachment C), the project applicant is Channing House, a continuing care retirement community licensed by the State of California to provide life care services to the aged. The existing senior living/health care facility is located at 850 Webster Street as shown on the aerial map (Attachment D). The proposed two-story building would be located on the southwest corner of the Channing House property adjacent to Homer Avenue, where there is currently an at-grade parking lot and one-story cottage used for storage, both of which would be demolished. The building would include 26 skilled nursing units, 27 assisted living units and associated dining/activity spaces. It would provide more space, privacy and other amenities for each resident, and a more efficient floor plan for staff than the existing facility. There would be two additional staff members as a result of project implementation.

Upon completion of the new building, senior independent living units and associated service/activity spaces will replace the vacated skilled nursing and assisted living units in the existing, taller building. There would be a net loss of two living units on the property. This results from a net increase in skilled nursing units and independent living units and a net decrease in assisted living units.

The second floor of the new building would encroach into the special PC daylight plane adjacent to residential zones. The project would meet the RM-30 daylight plane on all sides, and meet the RM-15 daylight plane on the side facing the RM-15 zone with the exception of the building corners. Attachment F contains the applicant’s letter of support for the variance for the encroachment. Landscaping improvements proposed on the Channing House property include perimeter tree plantings to buffer views of the existing and proposed buildings from residential properties.

The project includes closure of the one-way portion of a 15 foot wide private alley on Channing House property that currently connects Homer Avenue to Channing Avenue. The two-way portion of the private alley would be widened to 20 feet near Channing Avenue for safety reasons, and would remain accessible to residents of the adjacent Channing Place Townhomes (537-547 Channing Avenue). The two-way alley will also continue to be used by delivery and emergency vehicles coming to the existing Channing House loading area. A trial alley closure was implemented prior to the Commission meeting, with findings shown in Attachment N.

Planned Community (PC) Zoning
This PC has been amended five times, most recently in March 2006 to include wireless communications facilities as a permitted use (CMR 173:06). The ordinance history and prior ordinances are provided for Council members (Attachment M) and are available to the public on the City’s website. The original PC approved in 1961 established senior living as the public benefit, allowing for the construction of a 142 foot tall building housing a total of up to 320 senior living units and ancillary uses. This benefit will be maintained with this PC amendment, and therefore the demonstration of new public benefit is not required for approval of this amendment. As noted, a two-unit reduction in the total number of living units at the Channing House site is proposed. The number of skilled nursing units would increase by five units, the number of assisted living units would decrease by 21 units, and the number of independent living units would increase by 14 units, as explained in the following table:
Number of Living Units

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Existing # of Units</th>
<th>Proposed # of Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Skilled Nursing</td>
<td>21</td>
<td>26</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>48</td>
<td>27</td>
</tr>
<tr>
<td>Apartments</td>
<td>191</td>
<td>205</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>260 units</strong></td>
<td><strong>258 units</strong></td>
</tr>
</tbody>
</table>

Attachment E provides tables indicating the project’s compliance with zoning regulations and Comprehensive Plan policies. Attachment C includes the anticipated development schedule, required to be submitted with the PC amendment application and referenced in Section 6 of the attached PC Ordinance (Attachment A).

**BOARD/COMMISSION REVIEW AND RECOMMENDATIONS**

The Commission and ARB have recommended approval of the Negative Declaration, Planned Community zone amendment and variance, as noted below. Staff reports and meeting minutes for the second public hearings of the ARB and Commission are provided for Councilmembers (Attachments I, J, K, and L). These attachments are available on the City’s website and in City files, as noted below. Also available on the website and in City files are the staff reports and minutes from the first public hearings held by the ARB and Commission, as well as letters from the public. The project went to the Commission on March 22 and August 30, 2006 and to the ARB on July 6 and August 3, 2006.

**Architectural Review Board Review**

After the initial Commission review and between the two ARB meetings, the applicant revised the plans to improve the project in response to Commission and ARB comments. Between the two ARB hearings, the original Design Enhancement Exception (DEE) request was modified to a variance request, because the ARB was not able to make the necessary findings for approval of a DEE and variance findings could be made. The ARB reviewed the applicant’s shadow study. The applicant reduced the second floor area by approximately 1200 square feet in order to increase the setback and reduce the building’s second floor mass. This resulted in the loss of one skilled nursing unit on the second floor, compensated by the addition of an assisted living unit on the first floor; the overall number of units has not changed since the original request. On a 4-0-0-1 vote at the August 3 meeting, the ARB recommended approval of the project, adding two conditions to staff-recommended conditions of approval. These conditions required the applicant to consult with neighbors on the landscape plan and present final building materials and color samples to an ARB subcommittee. The applicant had revised the landscape plan in the July 20 plan set for ARB review on August 3rd, and did not meet with neighbors. The applicant plans to meet with the ARB subcommittee in November.

During the two ARB meetings, a total of eight persons gave testimony. Public speakers included four opposed and four in support of the project. In addition, staff provided reasonable accommodation, pursuant to the Americans with Disabilities Act (ADA), by sharing with the ARB the concerns of Larry Wertman, who lives in a townhouse adjacent to the proposed building. Mr. Wertman is concerned about loss of sky views and sunlight from his first floor windows, loss of privacy and his quality of life. Mr. Wertman had met with two ARB members prior to the meeting, to present his drawings and share his concerns.
Planning and Transportation Commission Review
On March 22, 2006, the Commission reviewed initial plans and, expressing support for the project, forwarded the project to the ARB. After the ARB completed its review, the Commission resumed its review (pursuant to the PC process set forth in PAMC Chapter 18.68) of the project on August 30, 2006. The August 30, 2006 Commission staff report (Attachment J) identified and discussed key issues to be considered.

As noted, the second floor of the new building would not meet the special PC daylight plane requirement. Although the project provides living quarters for elderly with special needs, the proposed use is not classified as residential. The PC regulations allow projects with a 60% residential component to follow the daylight plane requirements of the adjacent residential zones, such that the special PC daylight plane would not be applicable. Staff recommended a variance for the requested encroachment because the use does provide living quarters, thus satisfying the general intent of the daylight plane requirements. This rationale was used for the variance findings included in Attachment A, and was supported by the majority of the Commission and the ARB. Recognizing the applicant’s efforts and tradeoffs in scaling back the new building to better address the daylight plane requirement, the Commission ultimately supported the revised plans to allow Channing House to achieve its plans without sacrificing proposed units. The Commission indicated that the new building would help mitigate the impact of the original building, and would essentially mirror the setbacks and daylight planes as required on the adjacent properties.

The Commission also supported staff recommendations for mitigations regarding the shared alley (signage and curb painting) and construction nuisances, especially construction parking and debris. There were nine public speakers who addressed the Commission, seven in support and two opposed to the project. In addition, staff again spoke on behalf of Mr. Wertman to provide reasonable accommodation pursuant to the ADA by sharing his ongoing concerns with the Commission.

At this meeting, the Commission voted 5 – 2 to recommend approval of the project. The “no” votes were registered because of the variance request. In response to recommendations by the Commission on August 30, 2006, the applicant has:
1) Re-installed “story” poles on October 1 to provide approximate indication of the height and outline of the proposed building for Council consideration.
2) Explored the suggestion for a garden roof, and provided a letter (contained in Attachment F) that outlines why it would not be appropriate.
3) Revised plan sheet L1.1 to include a seating area adjacent to the Homer Avenue sidewalk between the two driveways allowing pedestrians to gather and rest on three benches.
4) Revised sheets A11 through A14 to provide more detail, including clearer depiction of the three daylight planes.

Reasonable Accommodation Request
Staff has made an extensive attempt to provide reasonable accommodations to Mr. Larry Wertman to address his stated disability. Mr. Wertman has not attended any of the public hearings. Correspondence from Mr. Wertman intended for public review has been provided to the ARB, Commission and Council. Staff has provided Mr. Wertman copies of the file contents,
and has strongly suggested that he view video tapes of the public hearings on this item to understand the views of the ARB and Commission on the matter. The applicant and Mr. Wertman have gone through mediation. The applicant has agreed in writing to provide double panes for Mr. Wertman’s windows prior to construction. A fence will address privacy issues between the first floor windows, and existing trees to be retained plus new trees will provide screening from proposed second floor windows.

Since the Commission meeting, Mr. Wertman has delivered additional correspondence and visited staff at City Hall to go over his concerns and to pose questions on topics such as the existing car wash, neighborhood noise, the alley width and backup area, and his belief the sun study should have been prepared from the inside of his home. Mr. Wertman states that the existing 15 foot wide alley needs to be widened to 20 feet wide to allow access to Townhomes #541, 543, 545 and 547, given closure of the one-way portion of the alley. Mr. Wertman does not feel the 15’ x 15’ backup area to be provided is adequate (letter dated September 14, 2006). The Transportation staff has verified that the existing alley width is sufficient to meet the access requirements of Mr. Wertman and that his backup area is adequate. Mr. Wertman’s request for a 60 day postponement of the Council meeting so he could obtain other professional studies (letter dated September 18, 2006) has been declined since the applicants would not be available. Mr. Wertman’s letters received since August 30, 2006 are provided to Council as Attachment H.

ENVIRONMENTAL REVIEW
An initial study analyzing the potential impacts of the project on the environment in accordance with the California Environmental Quality Act (CEQA) was prepared and a Negative Declaration (ND) was available for a 20-day public review from June 14, 2006 through July 5, 2006. Public comments received during the public review period were forwarded to the Commission. The initial study and Negative Declaration are available for public review and comment; they describe the 53-units as 27 skilled nursing units and 26 assisted living units (later adjusted to 26 and 27 units, respectively); the daylight plane encroachments mentioned in the Land Use/Planning section were associated with the original Design Enhancement Exception (DEE) request (later adjusted to a Variance). The attached environmental document was revised as annotated to reflect these two revisions, which were not considered substantial enough to re-circulate the document (pursuant to CEQA section 15073.5). The applicant’s traffic study recommended specific items to improve the project, and these and other measures identified during the public hearing process have become proposed conditions of approval included in Attachment B. These items include: 1) signage limiting 39 parking spaces in front of the existing building to visitor use only, 2) signage designating the alley as a fire lane and prohibiting parking, 3) painting the alley curb red, 4) adding traffic control devices at the entrance to the below-grade parking, 5) widening the curb cut to 20 feet, and 6) re-striping the pedestrian crosswalks.

RESOURCE IMPACT
The proposed project will generate additional General Fund revenues in the form of “in-lieu” property taxes and utility user taxes. Channing House is exempt from property taxes, but makes an “in-lieu-of” payment to the City based upon the assessed valuation of land, improvements, and unsecured property. The 850 Webster Street project improvements are expected to add in the range of $6 to $9 million in assessed value to the property. That will translate to $5,500 to $8,000 in additional property tax revenue to the City each year.
In addition, Channing House estimates that, with the new facility, its utilities costs will increase by approximately $30,000 per year. That would increase City UUT revenues by $1,500 per year.

Housing impact fees would not be assessed, since the project would result in a net loss of two units of senior housing and the five new skilled nursing units are exempt from housing fees. Community facilities fees in the amount of $12,880 will be due because the five new skilled nursing units represent increased non-residential floor area that is not exempt from these fees. No traffic or parking fees will be assessed since Channing House is neither in a special traffic fee area, nor in the parking assessment district.

Therefore, total annual revenue impacts to the City will be in the $7,000 to $9,500 range, along with a one-time impact fee of $12,880.

PREPARED BY:  _____________________________________________
AMY FRENCH
Manager of Current Planning

DEPARTMENT HEAD REVIEW:  ________________________________________
STEVE EMSLIE
Director of Planning and Community Environment

CITY MANAGER APPROVAL:  ____________________________________________
EMILY HARRISON
Assistant City Manager

ATTACHMENTS:
A. Ordinance Adopting the Negative Declaration, PC Amendment and Variance
B. Resolution of ARB Findings and Conditions of Approval
C. Revised Development Program Statement including anticipated Development Schedule
D. Project Aerial and Zone Map
E. Zoning & Comprehensive Plan Compliance Tables
F. Applicant’s Letters dated July 28 and September 22, 2006
G. Revised Initial Study and Negative Declaration
H. Public correspondence received since August 30, 2006 (Council only)
I. Commission Meeting Minutes of August 30, 2006 (Council only)
J. Commission Staff Report of August 30, 2006 (w/o attachments, Council only)
K. ARB Meeting Minutes of August 3, 2006 (Council only)
L. ARB Staff Report of August 3, 2006 (w/o attachments, Council only)
M. Related Prior PC Ordinances (Council only)
N. Channing House Alley Trial Closure Findings (Council only)
O. Project Plans (Council only)

**Note:**
Attachments H – N are available in files at City Hall and on the website links indicated below:

Project plans, letters from the public received on or before August 30, 2006, and source documents used for the Initial Study are in City Hall files.

**COURTESY COPIES:**
Carl Braginsky, Channing House
John Northway
Lisa Wang, HKI&T
Channing Place Homeowners Association
Joyce and Larry Wertman
Albert C. Starr
William and Marla McCormack
Daniel Sneider
Doris Anne Stoessel
Deborah Dooley
Marie Mookini
Devin Vincent Sheehan
Nadine Matityahu