



PLANNING COMMISSION MINUTES
Regular Meeting
January 17, 2013

West Hollywood Park Public Meeting Room – Council Chambers
625 N. San Vicente Boulevard, West Hollywood, California 90069

1. **CALL TO ORDER:** Chair Buckner called the meeting of the Planning Commission to order at 6:40 P.M.
2. **PLEDGE OF ALLEGIANCE:** Ruth Cislowski led the Pledge of Allegiance.
3. **ROLL CALL:**
Commissioners Present: Aghaei, Altschul, Bernstein, Huebner, Yeber, Vice-Chair DeLuccio, Chair Buckner.

Commissioners Absent: None.

Staff Present: Jennifer Alkire, Associate Planner, Stephanie Reich, Urban Designer, John Keho, Current and Historic Preservation Planning Manager, Christi Hogin, Assistant City Attorney, and David Gillig, Commission Secretary.
4. **APPROVAL OF AGENDA.**
ACTION: Approve the Planning Commission Agenda of Thursday, January 17, 2013 as presented. **Moved by Vice-Chair DeLuccio, seconded by Commissioner Huebner and unanimously carried.**
5. **APPROVAL OF MINUTES.**

A. **December 6, 2012**

ACTION: Approve the Planning Commission Minutes of Thursday, December 6, 2012 as presented. **Moved by Vice-Chair DeLuccio, seconded by Commissioner Yeber and carried; noting Commissioner Aghaei abstained.**
6. **PUBLIC COMMENT.**
RUTH CISLOWSKI, WEST HOLLYWOOD, Chair, Human Services Commission, provided details and encouraged participation in the City of West Hollywood's upcoming Community Study.

JEANNE DOBRIN, WEST HOLLYWOOD, commented on loss of parking spaces along San Vicente Boulevard due to a bike lane.

STEPHANIE DEWOLFE, PASADENA, Community Development Director, City of West Hollywood, introduced herself to the commission and public. She described her professional history and background.
7. **ITEMS FROM COMMISSIONERS.** None.

8. **CONSENT CALENDAR.** None.

9. **PUBLIC HEARINGS.**

A. **Zone Text Amendment.**

Housing Element – SB2:

Continued from Thursday, December 6, 2012. A recommendation to City Council regarding revisions to the Zoning Code for special needs housing (emergency shelters, transitional and supportive housing and single-room occupancy), West Hollywood, California.

Staff has requested this item continued to a date uncertain in order to provide time for staff and the city attorney to further clarify amendments to the draft ordinance pertaining to SB2.

Commissioner Yeber requested clarification regarding the urgency of this item.

John Keho, Current and Historic Preservation Planning Manager stated there is still urgency and state law needs to be complied with. However, the additional comments and concerns received from the Planning Commission and public need additional time to be incorporated into the final ordinance that will be brought back at a later date.

Commissioner Yeber questioned if there is a risk of the housing Element being decertified.

John Keho, Current and Historic Preservation Planning Manager, stated there is no risk. There is some concern, but staff believes they will still be able to accomplish this task quickly.

ACTION: 1) Continue to a date uncertain. **Moved by Vice-Chair DeLuccio, seconded by Commissioner Huebner, and unanimously carried as part of the approved agenda.**

B. **8760 Shoreham Drive.**

Applicant is requesting to extend entitlements and alter design of a previously approved twelve-unit condominium building with subterranean parking.

ACTION: 1) Continue to Thursday, February 7, 2013. **Moved by Vice-Chair DeLuccio, seconded by Commissioner Huebner, and unanimously carried as part of the approved agenda.**

**C. 612-614 N. Robertson Boulevard.
SUR Restaurant and Lounge:**

Jennifer Alkire, Associate Planner, provided an oral and visual presentation and background information as presented in the staff report dated Thursday, January 17, 2013.

She provided a history of the site property and stated the applicant is requesting to convert a portion of the existing SUR Restaurant into a nightclub. The square footage of the entire establishment would not change, and no dance floor is being proposed at this time. A development permit and a major conditional use permit are requested to accommodate this change of use. Additional required parking would be satisfied through use of the City's Parking Credits Program.

She stated they are requesting the intensification of 3,777 square-feet of indoor and outdoor space from restaurant to nightclub use. The total parking requirements would be 65 spaces.

She stated there was an error in the staff report and draft resolution no. PC 13-1034 pertaining to the new parking requirements. The full requirement with the intensification would be 65 parking spaces total.

She affirmed the applicant has not requested a dance floor at this time. In order for them to get one in the future, they would need to have a further intensification of use and amend their conditional use permit.

Other similar uses exist in the area creating a lively district. Staff recommends the proposed change of use.

Vice-Chair DeLuccio questioned the entire square footage of the restaurant and night club.

Jennifer Alkire, Associate Planner stated the restaurant has 4,571 square feet of indoor space and 2,229 of outdoor dining space.

Commissioner Aghaei requested clarification of the restaurant and night club operations.

Commissioner Huebner requested clarification regarding the outdoor smoking area.

John Keho, Current and Historic Preservation Planning Manager clarified and read into the record the Smoking Ordinance.

Vice-Chair DeLuccio disclosed for the record he made a site visit.

Commissioner Aghaei disclosed for the record he spoke with staff relating to matters contained in the staff report and made a site visit.

Chair Buckner opened the public hearing for Item 9.C.:

MARK LEHMAN, WEST HOLLYWOOD, applicant's representative, provided the applicant's report. He provided a history of the establishment and clarified the expansion took place in 2011. He stated only after the expansion area was opened and in operation for a period of time, did experience dictate that the new space lends itself better to a bar and lounge use, rather than just exclusively as a restaurant. He detailed the bar area, restaurant area, lounge area, outdoor patio space, entry areas, parking spaces and parking credits program. The desire is to continue to have food service, but to have the city treat it as a full blown bar. He spoke and clarified the city's smoking ordinance did not influence this application. He requested approval.

Commissioner Bernstein requested clarification regarding indoor and outdoor space usage.

Commissioner Aghaei questioned if there is outdoor ambient music currently playing.

MARK LEHMAN, WEST HOLLYWOOD, applicant's representative, stated for the record there is currently low level ambient, music on both sides. This was part of the original approval from 2011.

Commissioner Yeber requested clarification of food service location(s).

Vice-Chair DeLuccio requested clarification of the alcohol license(s). He questioned if it would come back before the Planning Commission if they choose to put in a dance floor at a later date.

John Keho, Current and Historic Preservation Planning Manager stated if they chose to put a dance floor in, it would have to come back before the Planning Commission.

DAVID COOLEY, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

SAM BORELLI, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

FRANCES DIAZ, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

GENEVIEVE MORRILL, LOS ANGELES, President and CEO, West Hollywood Chamber of Commerce, spoke in support of staff's recommendation of approval.

STEVE MARTIN, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

JEANNE DOBRIN, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding Type 47 and Type 48 alcoholic beverage licenses and stated her concerns regarding smoking.

MARK LEHMAN, WEST HOLLYWOOD, applicant's representative, provided the applicant's rebuttal. He detailed Type 47 and Type 48 alcoholic beverage licenses. He stated how SUR is a great contributor to the City of West Hollywood and requested approval.

Commissioner Aghaei questioned if patrons of the nightclub will be able to order food.

MARK LEHMAN, WEST HOLLYWOOD, applicant's representative, stated for the record they will be able to order food in the nightclub.

Commissioner Yeber questioned why two separate Type 47 alcoholic beverage licenses have not been obtained and requested clarification regarding parking spaces.

MARK LEHMAN, WEST HOLLYWOOD, applicant's representative, stated he believes the Alcoholic Beverage Control (ABC) looks at co-ownership and treats it the same. He detailed the history of the parking situation.

Vice-Chair DeLuccio questioned if there has ever been any disciplinary action taken by the ABC against SUR since inception.

MARK LEHMAN, WEST HOLLYWOOD, applicant's representative, stated not his knowledge.

Commissioner Bernstein questioned if this was to move forward, would the applicant be comfortable with the following conditions: a) the nightclub will serve food; and b) minors will be allowed access until at least 9:00 p.m.

MARK LEHMAN, WEST HOLLYWOOD, applicant's representative, stated this would not be a problem.

ACTION: Close public hearing for Item 9.C: **Motion carried by consensus of the Commission.**

Commissioner Bernstein commented on the smoking ordinance and stated this seems to be a law of unattended consequences. He stated we are seeing perfectly viable restaurants being compelled to consider applications for nightclubs so they can function most effectively. The best thing would be to ask council to rescind the smoking ordinance. This is currently the law, and this seems to be a viable way of working around it. We should not be punishing our businesses, especially when we (City of West Hollywood) have to compete so much with Hollywood and Beverly Hills.

Chair Bernstein moved to: 1) approve staff's recommendation of approval; with the following amendments: a) food shall be served in the nightclub at all times the nightclub is in operation; and b) minors (under 21) will not be excluded any time before 9:00 p.m.

Seconded by Vice-Chair DeLuccio.

Commissioner Bernstein clarified he wants the same language applied to the nightclub regarding food service that was used for SBE, which David Cooley agreed to for The Abbey.

Vice-Chair DeLuccio stated he would leave what type of alcoholic licensing is required to the ABC (Type 47 vs. Type 48). He reiterated the use runs with the land. Since there are mechanisms in place with a six month review with the Director of Community Development, minor alterations could be made to the conditional use permit. He stated his support.

Christi Hogin, Assistant City Attorney, confirmed the purpose of the six month review is to affirm that the conditions are being implemented. It does not create a new opportunity to impose additional conditions. Once you approve a conditional use permit or a development permit, then only if you have grounds for revocation can you alter it.

Vice-Chair DeLuccio stated his support of the six month review and that they will be in compliance.

ACTION: 1) Approve the application; 2) Adopt Resolution No. PC 13-1034 as amended: *a) food shall be served in the nightclub at all times the nightclub is in operation; and b) minors (under 21) will not be excluded any time before 9:00 p.m.* "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT FOR THE INTENSIFICATION OF USE FROM AN EXISTING RESTAURANT TO A NIGHTCLUB, FOR THE PROPERTY LOCATED AT 612-614 N. ROBERTSON BOULEVARD, WEST HOLLYWOOD, CALIFORNIA, (SUR RESTAURANT AND LOUNGE);" and 3) Close Public Hearing Item 9.C.
Moved by Commissioner Bernstein, seconded by Vice-Chair DeLuccio and passes on a Roll Call Vote:

AYES: Aghaei, Altschul, Bernstein, Huebner, Yeber, Vice-Chair DeLuccio, Chair Buckner.

NOES: None.

ABSENT: None.

RECUSED: None.

**THE COMMISSION TOOK A FIFTEEN (15) MINUTE RECESS AT 7:35 P.M.
AND RECONVENED AT 7:50 P.M.**

10. NEW BUSINESS.

A. Amendments to Approve Projects.

John Keho, Current and Historic Preservation Planning Manager, stated Commissioner Bernstein contacted city staff and requested an item be agendaized regarding amendments to approved projects.

He stated that many projects are amended after they are approved by the Planning Commission or City Council. The question would be, how it is determined if an amendment is approved by staff or must go back to the Planning Commission.

He spoke referencing a handout of the West Hollywood Municipal Code Section §19.62.070 (Amendments to Approve Projects); since the code anticipates most projects do go through various changes before they actually get built. He referenced and detailed Section §B regarding how staff determines when something is considered a minor change versus a major change.

He stated staff has several criteria they look at; which includes the approved resolution and the approved minutes. He gave several examples how these documents are incorporated into the decision making process.

There are also some projects that are approved as part of development agreements. He stated development agreements include specific criteria for amendments. They could be different for each type of development agreement. Recently development agreements have been identifying what type of modifications can be done at the staff level. He detailed what those modifications and criteria could be.

He suggested this would be a good opportunity for the commission to talk about what the commission believes are important issues when projects are approved.

Commissioner Bernstein stated he understands the logic of the West Hollywood Municipal Code Section §19.62.070 (Amendments to Approve Projects); however, what is classified as a minor change to a major project, falls somewhat into a gray area. Specifically with Movietown Mixed-Use Project; while the envelope has shrunk with this project, so has the commercial space, which has a financial impact on the city.

He expressed concerns that we don't simply devolve into a panel that sort of approves the footprint of a design; on the theory that if the footprint shrinks, therefore the impact shrinks and it has less of an impact. He stated his support of staff's explanation that the consistency of the design is considered.

However, at the very least it seems that when something is coming back three stories shorter, and with a significant reconfiguration of the unit size and the space, then perhaps there could be a more thorough reporting out to the planning commission as it gets reconsidered. Perhaps there could be a way of keeping the commission more abreast. These minor designs on major projects, seems like a different animal. He encouraged an ongoing conversation regarding this issue.

Vice-Chair DeLuccio stated he thought it was good gesture that it (Movietown Plaza Mixed-Use Project) went before the design review subcommittee. However, in order for that to happen, the public had to come out and bring the situation to the commission's attention. One thing he would like to see would be to have it go back to the design review subcommittee automatically, without it being triggered by public comments.

He stated he also understands the logic of West Hollywood Municipal Code Section §19.62.070 (Amendments to Approve Projects); and the criteria that is used, however, a lot of the stuff under §Section B is pretty subjective. Perhaps there's another way to flush this out with some kind of specific, quantitative criteria to help the commission determine if something needs to go back to the planning commission or not. That would be helpful.

Commissioner Altschul stated a lot of this is subjective. The staff's ability to sift through and determine what is major and what is minor should be paramount. However, Movietown Mixed-Use Project is the classic example. Movietown changed some of the materials, and they also shrunk the commercial component from what it was in the original configuration, to what the city council entitled. The city council gave them the right to reduce the commercial component.

Then they come back and want more of a reduction. These are red flags that should perhaps suggest to staff that it's not a minor change, that it has the earmarks of a major change. He stated his support to leave this to staff and the public.

Commissioner Huebner stated there could be a little more reporting out by the planning commission design review subcommittee; a little more transparency about what happens in the design review subcommittee meetings. There are significant comments made that are expected to be addressed by the developer's. It would be advantages if those design review subcommittee comments are in the planning commission staff reports.

Commissioner Aghaei concurred; design review subcommittee bullet points would be advantages in planning commission staff reports.

Commissioner Yeber stated his confusion with the wide gulf between reducing an entire building by a floor or several floors, and changing the size of a window to meet certain building and safety requirements. There is no threshold for what is major or minor. If we could have some basic perimeters that would help guide staff, and help the commission understand where these projects are as they move through the entitlement process and beyond. He stated his support of having a bullet pointed design review subcommittee report, one that is filed with the commission as a consent calendar item. That way something is put into the public record.

John Keho, Planning Manager commented on the quantification comments. He stated frequently what happens is not anything that can be quantified; it's actually just a design change. For example, if they are using different materials or a slightly different style. These are really common changes, so actually there is no way to quantify that. Unless it can be specifically brought to the developer with specific instructions given by the commission at the time of approval. It's usually a judgment call staff has to rely on.

Vice-Chair DeLuccio stated the commission used to receive a detailed description of the design elements of the project in staff reports, which would also have a summary of the design review subcommittee meeting. He also notated that during staff's presentation, it was common for the Urban Designer to give a verbal presentation as well as a member of the design review subcommittee.

Commissioner Bernstein commented when he joined the commission, the commission did not look at the financial impacts of a project, and yet development agreements and SB 1818 both really require that we pay attention to financial impacts. There is no question that a project that will bring in a large number of affordable units will have financial impacts, and that reducing the business square footage in a negative way has a financial impact on the project.

He would like to see more guidance on how the commission is to evaluate financial impacts. It is imperative if we are going to make decisions on how things have financial impacts that we have all the information available and that we not overlook that when it comes to determinations on revisions.

Commissioner Altschul stated his understanding and recollection historically, was that the caveat against looking at the financial impacts applied to looking at the financial impacts as it affected, or with regard to the developer. There was always an awareness of a financial impact with respect to the city and the aspects of a project that financially impact the

city. He supported this and stated this is perfectly justifiable and something that needs to be continued. We should strongly continue the process of not going into the financial impacts and the value engineering and the bottom line of the developers.

Christi Hogin, Assistant City Attorney reiterated the subject matter and stated for the record staff has heard among the many considerations on whether something is a minor or major amendment, would be to include if there is some significant change in the amount of retail space or office space, or changes of use that might have impacts that might include tax revenues.

Chair Buckner opened New Business Item 10.A. for public comment:

JEANNE DOBRIN, WEST HOLLYWOOD, has concerns regarding this item. She commented on various projects that have come before the commission and changed after-the-fact.

STEVE MARTIN, WEST HOLLYWOOD, has concerns regarding this item. He supported tonight's topic of conversation, stating there seems to be a sense of talking about issues, about the future and how we can create a process that works.

ACTION: Close public comment for Item 10.A: **Motion carried by consensus of the Commission.**

11. UNFINISHED BUSINESS. None.

12. EXCLUDED CONSENT CALENDAR. None.

13. ITEMS FROM STAFF.

A. Planning Manager's Update.

Stephanie Reich, Urban Designer introduced herself to the commission and public. She described her professional history and background.

John Keho, Current and Historic Preservation Planning Manager provided an update of commission concerns for the following properties: 1) Eleven; and 2) Le Petit Ermitage Hotel.

He provided an update on the following major projects currently taking place in the city: 1) Plummer Park Renovation; 2) 1343 N. Laurel Avenue; and 3) City Hall Automated Parking Garage. He stated there is no update for a new city hall location at this time.

14. PUBLIC COMMENT.

STEVE MARTIN, WEST HOLLYWOOD, commented on the lack of communication regarding a possible new city hall location. He spoke on current leadership and the changes that need to take place.

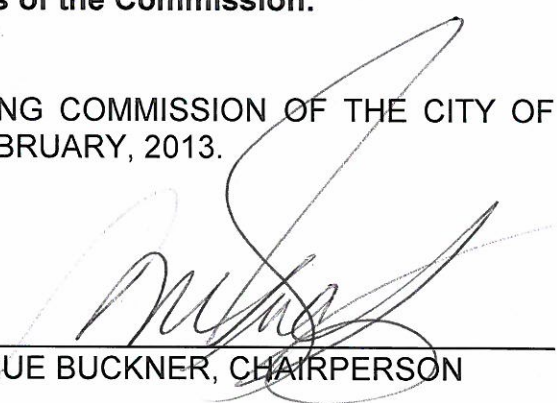
15. ITEMS FROM COMMISSIONERS.

Commissioner Yeber welcomed Stephanie DeWolfe, Community Development Director and Stephanie Reich, Urban Designer. He looks forward to working with both in the future.

Happy Birthday to Commissioner Aghaei on Friday, Friday, January 18th.

ADJOURNMENT: The Planning Commission adjourned at 8:30 P.M. to the next regularly scheduled meeting which will be on Thursday, February 7, 2013 beginning at 6:30 P.M. until completion at West Hollywood Park Public Meeting Room – Council Chambers, 625 N. San Vicente Boulevard, West Hollywood, California. **Motion carried by consensus of the Commission.**

APPROVED BY A MOTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD ON THIS 7TH DAY OF FEBRUARY, 2013.



SUE BUCKNER, CHAIRPERSON

ATTEST:



DAVID K. GILLIG, COMMISSION SECRETARY