

SUBJECT: AMENDMENT TO THE ZONING ORDINANCE REGARDING
OUTDOOR COMMERCIAL USES ABOVE THE FIRST FLOOR

STAFF REPORT
PREPARED BY: DEPARTMENT OF COMMUNITY DEVELOPMENT
(David DeGrazia, Planning Manager, CHPP)
(Jennifer Alkire, AICP, Senior Planner)

STATEMENT ON THE SUBJECT

The Planning Commission will hold a public hearing to consider an amendment to the Zoning Ordinance to introduce new standards requiring development permit approval with review and decision by the Planning Commission for all new or expanded outdoor dining areas and other similar outdoor commercial uses above the first floor.

RECOMMENDATION

Staff recommends that the Planning Commission hold the public hearing, consider all pertinent testimony, and adopt the following:

- 1) Draft Resolution No. PC 17-1198: **“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A ZONE TEXT AMENDMENT TO REQUIRE DEVELOPMENT PERMIT APPROVAL BY THE PLANNING COMMISSION FOR ALL NEW OR EXPANDED OUTDOOR DINING AREAS OR SIMILAR COMMERCIAL OUTDOOR USES ABOVE THE GROUND FLOOR OF A STRUCTURE, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA.”** (EXHIBIT A)

OVERVIEW OF PROPOSED AMENDMENT

Under the current Municipal Code, commercial outdoor uses are under the review authority of the Director of Community Development. Outdoor uses associated with restaurants or dining require administrative permit approval, including uses at the ground floor and above. The City Council directed staff to explore revisions to the Zoning Ordinance to require requests for outdoor dining, and other similar commercial outdoor uses, located above the first floor to be subject to development permit approval subject to review and decision by the Planning Commission.

BACKGROUND

City Council directed the Community Development Department to draft a Zone Text Amendment to require development permit approval for new rooftop activity or the intensification of a rooftop use in commercial zones. The Council further specified that such requests for rooftop uses should be reviewed, approved, modified or denied through a public hearing process.

Rooftop decks associated with restaurants have become increasingly popular in the area, and the City has seen an increase in the number of requests for these types of spaces in recent years. However, concerns have been raised that outdoor dining on rooftops or elevated terraces may have a greater impact on the adjacent neighborhoods with respect to sound as well as light and glare. The changes to the Zoning Ordinance would allow the decision makers to hear public comment on such requests, and to impose conditions ensuring that any request granted is compatible with the surrounding uses.

The intent of the procedural changes regarding outdoor commercial uses was to protect residential neighborhoods from increased noise emanating from rooftop activities such as outdoor dining and other assembly uses. Under the amended procedures, such uses would be subject to a public hearing. The public hearing process ensures that nearby residents are aware of the request and allows members of the public to comment and participate in the hearing process, and gives decision-makers the opportunity to impose conditions of approval to help ensure the approved activity is compatible with neighboring uses.

Comparison with Current Procedures

Currently, outdoor dining is allowed with an administrative permit that can be approved by the Director of Community Development without a public hearing. Outdoor dining associated with a restaurant with alcohol may be reviewed and approved by the Community Development Director at a public hearing along with the minor conditional use permit for the request for alcohol. There is no distinction in the zoning ordinance between outdoor areas located on the ground level and those located on a rooftop or elevated terrace. Decisions made by the Director can be appealed to the Planning Commission, and decisions made by the Planning Commission can be appealed to the City Council.

For applications with components that already require public hearing before the Planning Commission, the new requirement would not increase the time required to process the request as a whole. However, for requests for outdoor dining above the first floor that do not otherwise require a public hearing before the Planning Commission, these changes will likely result in additional processing time and additional cost to the applicant.

Public Notice

The City published a legal notice in the *Beverly Press* and *West Hollywood Independent* on April 20, 2017; and by a mailing to neighborhood watch groups and other neighborhood organizations.

California Environmental Quality Act (CEQA)

The zone text changes are Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines. Section 15061 states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. No possibility exists that the proposed zone text amendments will have a significant effect on the environment since the changes to the ordinance would affect only the procedures involved with reviewing applications. This ordinance does not change the numbers of establishments where outdoor dining is permitted or result in physical changes to the environment.

Planning Commission Long-Range Planning Subcommittee

The Long-Range Planning Subcommittee discussed the proposed zone text amendments on March 16, 2017. The Commissioners were generally supportive of the amendment and made suggestions that would further ensure the changes are consistent with the intent of the Council. Specifically, staff revised the proposed changes to include outdoor dining as well as other similar uses as determined by the Director.

EXHIBITS

- A. Draft Resolution No. PC 17-1198

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RESOLUTION NO. PC 17- 1198

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A ZONE TEXT AMENDMENT TO REQUIRE DEVELOPMENT PERMIT APPROVAL BY THE PLANNING COMMISSION FOR ALL NEW OR EXPANDED OUTDOOR DINING AREAS OR SIMILAR COMMERCIAL OUTDOOR USES ABOVE THE GROUND FLOOR OF A STRUCTURE, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA.

The Planning Commission for the City of West Hollywood hereby finds, resolves, and orders as follows:

SECTION 1. The City of West Hollywood initiated amendments to the Zoning Ordinance, Article 19 of the Municipal Code to require new or expanded outdoor dining areas or similar outdoor commercial uses above the ground floor be subject to development permit approval by the Planning Commission.

SECTION 2. A public hearing was duly noticed for the Planning Commission meeting of May 4, 2017 by publication in the Beverly Press newspaper, the West Hollywood Independent Newspaper on April 20, 2017; announcement on the City website and on City Channel 6; and mailing of notice to all neighborhood watch groups.

SECTION 3. The zone text changes are Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines. Section 15061 states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. No possibility exists that the proposed zone text amendments will have a significant effect on the environment since the changes pertain only to the procedures by which certain land uses are reviewed and approved. This ordinance does not change the numbers of establishments where outdoor dining is permitted or result in physical changes to the environment.

SECTION 4. The Planning Commission of the City of West Hollywood hereby finds that Zone Text Amendment 2017-0001 is consistent with the Goals and Policies of the General Plan, specifically Goal LU-1: "Maintain an urban form and land use pattern that enhances quality of life and meets the community's vision for its future."; Goal LU-8: "Maintain and enhance residential neighborhoods."; Goal SN-3: "Minimize the impact of point source noise and ambient noise levels throughout the community." The incorporation of these revised procedures will help regulate the impacts of commercial activity on adjacent residential neighborhoods by making any commercial outdoor use above the first floor subject to public hearing by the Planning Commission. These procedural changes will not impede the implementation of any of the Goals, Objectives, or Policies of the West Hollywood General Plan.

ITEM 11.A. EXHIBIT A

SECTION 5. Based on the foregoing, the Planning Commission of the City of West Hollywood hereby recommends approval to the City Council of Zoning Text Amendment 2017-0001, which is attached hereto as Attachment A.

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PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of West Hollywood at a regular meeting held this 4th day of May, 2017 by the following vote:

AYES: Commissioner:

NOES: Commissioner:

ABSENT: Commissioner:

ABSTAIN: Commissioner:

DAVID AGHAEI, CHAIRPERSON

ATTEST:

DAVID J. DEGRAZIA, PLANNING MANAGER
CURRENT & HISTORIC PRESERVATION PLANNING

Decisions of the Planning Commission are subject to appeal in accordance with the procedures set forth in West Hollywood Municipal Code Chapter 19.76. Any action to challenge the final decision of the City of West Hollywood made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure Section §1094.6.

Attachment A

ZONE TEXT AMENDMENT 17-0001 WEST HOLLYWOOD MUNICIPAL CODE SECTIONS TO BE MODIFIED

Section 1. Section 19.36.210 of Chapter 19.36 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

19.36.210 Outdoor Dining.

A. *Review Requirement.* An outdoor dining or seating area for restaurants or other establishments with a public eating license shall require approval of an administrative permit (Chapter 19.44) when located on the ground floor, or a development permit (Chapter 19.48) when located above the ground floor, and shall be developed in compliance with an approved site plan which indicates the maximum seating capacity for the outdoor dining area. See also Chapter 11.28 of the West Hollywood Municipal Code, “Outdoor Dining on Public Right of Way.”

Section 2. Section 19.44.020 of Chapter 19.44 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

19.44.020 Applicability.

A. *When Required.* An administrative permit shall be required for any land use listed in Article 19-2 (Zoning Districts and Allowable Land Uses) as requiring administrative permit approval, and the following uses and construction:

1. An exterior alteration that changes architectural character or theme;
2. Up to 500 square feet of second story construction to either a single-family home or duplex either as a new second story or an addition to an existing second story;
3. An addition of more than 500 to 1,000 square feet to any structure other than a single-family home or duplex;
4. An addition which does not exceed 500 square feet but changes the architectural character or theme, or encloses a balcony in conformance with Section 19.72.030(B);
5. Garages, carports, and other residential accessory structures under 500 square feet which do not maintain the same architectural character as the primary structure(s);
6. Outdoor dining areas located on the ground floor;
7. Installation of a mechanical parking lift at an existing parking facility.

Section 3. Section 19.48.020 of Chapter 19.48 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

19.48.020 Applicability.

A development permit shall be required for:

- A. An addition of more than 1,000 square feet to any structure other than a single-family home or duplex;
- B. An addition of more than 500 square feet to a single-family dwelling or duplex (see Section 19.36.320(D), Residential Uses – Single-Family Dwellings and Duplexes);
- C. Any new non-residential parking facility in a -PK (Parking) Overlay Zone or any alterations to an existing non-residential parking lot including intensification of hours of operation;
- D. Any substantial remodel to any structure other than a single-family home or duplex, which shall be defined as the removal of 50 percent or more of the exterior wall area (which includes walls, doors, and windows), or the removal of 50 percent or more of the supporting members of a structure (e.g., beams, bearing walls, columns, or girders), whichever is more restrictive. A demolition permit shall also be required for this work; and
- E. A common interest development created through the conversion of existing residential units that does not comply with Section 19.36.100(C);
- F. An intensification of use;
- G. A new structure except as follows:
 - 1. A new garage or carport or other residential accessory structure of 500 square feet or less. See Chapter 19.42 (Zone Clearances).
 - 2. Fences and other yard improvements or equipment in compliance with Article 19-3 (Site Planning and General Development Standards).
 - 3. Other structures specified by Table 2-2 (Allowed Residential Uses) and Table 2-5 (Allowed Commercial and Public Uses);
- H. Automated parking structures.
- I. New or expanded (including expanded hours of operation) outdoor dining areas and similar outdoor uses as determined by the Director, located on rooftops, terraces, or other outdoor locations above the ground floor. Does not apply to dining areas on the ground floor (see §19.44.020.A.6)

Section 4. A new Type of Use or Project is added to the Commercial Zoning Districts in Table 4-2 in Section 19.48.030 of Chapter 19.48 or Title 19 of the West Hollywood Municipal Code to read as follows with the rest of the table remaining unchanged:

TABLE 4-2
DEVELOPMENT PERMIT REVIEW AUTHORITY
 [Explanatory Notes Follow At The End Of The Table]

Type of Use or Project	Review Authority	
	Director	Commission
Commercial Zoning Districts, except SSP		
<u>New or expanded (including expanded hours of operation) outdoor dining areas and similar outdoor uses as determined by the Director, located on rooftops, terraces, or other outdoor locations above the ground floor.</u>		<u>X</u>

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