



PLANNING COMMISSION MINUTES

May 1, 2003

West Hollywood Park Auditorium, 647 N. San Vicente Boulevard, West Hollywood, California 90069

1. CALL TO ORDER

Chair Behr called the meeting of the Planning Commission to order at 6:30 PM.

The agenda was posted at City Hall, the Community Development Department counter, the West Hollywood Library on San Vicente Boulevard, Plummer Park, and the West Hollywood Sheriff's station.

2. ROLL CALL

Commissioners Present: John Altschul, David Behr, Brad Crowe, Donald DeLuccio, Barbara Hamaker, Barbara Hewitt, and Brad Torgan.

Commissioners Absent: None.

Staff Present: Susan Healy Keene, Planning Manager; Christi Hogin, City Attorney; John Keho, Senior Planner; Paula Kelly, Senior Planner; Elinor Aurther, Assistant Planner; and Jennifer Diaz, Administrative Staff Assistant.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Barbara Hamaker.

4. APPROVAL OF AGENDA

Action: Approve the Agenda of May 1, 2003 with the following amendments: Pull both sets of minutes for more detail; and to item 8.A, the two Commissioners appointed to the Transportation sub-committee are Commissioners Hamaker and Crowe.

Motion: DeLuccio Second: Altschul

Vote: All Ayes

Motion carries

5. APPROVAL OF MINUTES

A. Minutes – March 20, 2003

B. Minutes – April 3, 2003

Pulled for further details.

6. PUBLIC COMMENT

- A. Jeanne Dobrin, West Hollywood, stated that she received a notice of the ground breaking for the PDC and it happens to be on the same night as the Planning Commission meeting and believes they should have planned more appropriately for their function. Also noted that Bristol Farms has dozens of cases of water stacked in front of their store and notified the Code Compliance division.

7. ITEMS FROM COMMISSIONERS

Altschul – Recommended that staff consider omitting the Transportation Sub-committee because it doesn't seem to serve a purpose.

8. CONSENT CALENDAR

- A. **Affirm Chair's appointment of Planning Commission Members to the Transportation Sub-committee.**

Commissioners Hamaker and Crowe were appointed to the sub-committee.

9. EXCLUDED CONSENT CALENDAR

None.

10. PUBLIC HEARINGS

- A. **Draft Environmental Impact Report for the Pacific Design Center Red Building, Demolition Permit 2001-12, Development Permit 2001-27 and Specific Plan Amendment 2001-04:** Receive comments on the Draft Environmental Impact Report only.

Applicant: Pacific Red I, LLC
Location: 8661 and 8687 Melrose Avenue
Planner: John Keho
Recommendation: Receive and file.

Commissioner DeLuccio recused himself from the hearing.

Chair Behr opened the item to receive comments on the Draft Environmental Impact Report only.

John Keho presented the staff report.

Eric Wilson, EDAW, presented a report on the Draft EIR for the Pacific Design Center's (PDC) Red Building which included background on the Blue and Green Building, project components, the CEQA process, and environmental impacts.

Commission Comments

Altschul – Some things to be looked at should include parking and individual and subsequent uses, which should have more detail in the final draft of the EIR to specific uses for administrative permits. Inquired how the current proposal would resolve the possible adverse impact of the current use of on-site parking spaces at the PDC used by businesses along Santa Monica Boulevard.

Crowe – Stated with the proposed administrative changes that there would be a number of burdens placed on staff with pressure from applicants to quickly review and approve their applications and there should be a process plan in place. Only twenty intersections were looked at and some residential neighborhoods were not assessed as presented in the report, specifically the Rosewood neighborhood and other neighborhoods adjacent to the PDC being used as shortcuts.

Behr – Noted the intersections of Crescent Heights and Beverly and La Cienega and Beverly were not analyzed for impact but the intersection of Crescent Heights and Sunset was yet it is further than the preceding two intersections. Inquired how the shaded areas of the current proposal compares to what was approved in the past, with regards to the 10% and 15% reductions, and in shade and shadow section should include a traffic mitigation recommendation which notes 290,000 square feet. Inquired about the section which stated there were no mitigation for special events and the section regarding the 15,000 square foot banquet room, specifically where it is located. Requested specific information regarding the ground water impact with it's variations in the building as it affects the immediate area. Also commented on the lanes of traffic that can be blocked by cars or buses on Santa Monica Boulevard and Melrose Avenue and if there are mitigating situations. Refer to page 3.4.24 where EIR indicated a 4,009 parking space demand when only 3,141 spaces are available.

Public Comment

1. Donald Elmlad, West Hollywood, concerned with traffic, ground water, which flows down to Huntley) and the request by the PDC to have unlimited outdoor dining throughout the year for under 2,500 people and special events with over 2,500 people. Believes that there should only be 4 special events allowed per year and suggested the outdoor dining be surrounded by double paned glass.
2. Lauren Meister, West Hollywood, stated that the PDC is requested a change of use that will increase traffic on Melrose, San Vicente and into the neighborhoods. The EIR needs to be expanded to address the potential impacts in the surrounding neighborhoods and smaller residential streets. It additionally needs to include a better assessment of special events and potential impacts into the neighborhoods.
3. Bruce Traub, West Hollywood, summarized the request of the PDC for the Red Building and believes it will not be a convention-like center but rather a large-scale nightclub that will disrupt the entire neighborhood. Also adds that the City will be allowed to hold ten events at the PDC and how will noise complaints be handled for those. Requested the rooftop area be enclosed in glass to keep the noise from disturbing neighbors.
4. Jeanne Dobrin, West Hollywood, stated that rooftop use for special events and helicopters should be prohibited. Concerned that the additional parking needed for retail and office space is not adequately addressed in the Draft EIR and the

parking spaces used by persons working in these offices will take up needed spaces.

5. Lynn Hoopingarner, West Hollywood, spoke in opposition to a poorly conceived development and does not believe the traffic study is adequate.

Chair Behr informed the public that May 5th is the deadline to submit written comments to staff on the Draft EIR.

Commissioner DeLuccio rejoined the meeting.

B. Zone Text Amendment 2002-05: The proposed Zone Text Amendment would exempt City projects from the requirements of the Zoning Ordinance and Specific Plans. City projects would still be required to be consistent with the General Plan and meet the requirements of the California Environmental Quality Act (CEQA).

Applicant: City of West Hollywood

Location: City Wide

Planner: C.J. Amstrup

Recommendation: Forward a recommendation of approval to the City Council.

Chair Behr opened the public hearing.

Susan Healy Keene presented the staff report.

Commission Comments

Crowe – Commented on areas that need amending to include:

When the City's temporary use of the exempt property ends, the underlined zoning will come forward; Therefore the City should issue terminable use permits for the period of exemption to avoid grandfathering of the uses after the property reverts to its underlined zoning. According to State law, the Planning Commission would have to give the City Council a report on every acquisition, disposition or construction proposal with or without zoning and should be amended to comply with the State Law. Another item of concern is proposed billboards are not to be exempted from local zoning under Public Utilities Commission Code (§ 28959).

Torgan – Inquired if an exemption from a specific plan is consistent with the general plan.

Christi Hogin – States that the specific plan in West Hollywood is by ordinance and is regarded as part of the Zoning Ordinance rather than amendments of the General Plan.

DeLuccio – Inquired if the General Plan can be amended to be consistent

Hamaker – Asked for clarification on why there was a need to approve the zoning text amendment now and having projects come before the commission when applied for requesting zoning text amendments.

Susan Healy Keene – Explained that an approved zone text amendment would apply citywide, and certain city projects may not be citywide but it will serve as a public benefit.

Behr- Stated that there were concerns from the community on proposed parking structures and inquired if a project for a parking structure comes before the Commission, does the Commission have the authority to approve the City's project with conditions.

Christi Hugin – States that the Commission will not issue a permit with conditions, only making a determination on whether the proposed use or structure was consistent with the general plan and the final decision would be made by the City Council.

Public Comment

1. Donald Emblad, West Hollywood, believes this issue is a control and lack of control like the MTA lot being controlled by the county, which nothing has been done to mitigate the noise and pollution and is strongly opposed to the zone text amendment.
2. Lauren Meister, West Hollywood, the zoning ordinance was put in place to protect residents and businesses, while the general plan is a guide, it is not specific enough to protect residents. Opposed to an amendment that allows the City to exempt itself from the zoning ordinance specifically requirements in order to approve projects without community outreach and public review.
3. Lynn Hoopingarner, West Hollywood, dismayed by the fact that this item is scheduled for the City Council before following procedures and going through the Planning Commission first, believes that this sends a message that the Planning Commission and public hearing process doesn't give significant input and the City Council will approve whatever it would like.
4. Bruce Traub, West Hollywood, urged the Commission not to approve the recommendation and hopes they will stand behind the community. Does not believe the City should exempt itself from complying with city regulations.
5. Jeanne Dobrin, West Hollywood, believes this request will be too dangerous to be a blanket exemption and urged the Commission to deny the recommendation.
6. Dan Siegel, West Hollywood, does not believe this is the way to build much-needed parking lots for the city and urged to Commission not to forward an approval to the City Council.
7. Catherine Hahn, West Hollywood, appreciates the concern that the Planning Commission is showing and urged the Commission to deny the recommendation.

Commission Deliberation

DeLuccio – Believes that staff should have come up with some language for amending the resolution. Isn't clear on what exemptions the report states that the local government is exempt from and believes that there are some criteria that they must follow as well.

Altschul – Views this as an opportunity and it's about the solving the parking problem. Agrees with staff's recommendation.

Torgan – Disagrees with the exemption from the Specific Plan, which was implemented to be used as a guide; believes that subordinate and accessory uses have to be existing at the time the project comes forward.

Hewitt – Does not believe that the request is prohibiting public comment or process and agrees with staff's recommendation.

Crowe – Has come up with four areas that need to be tightened up which include: terminable use permits to prevent the uses from being grand fathered in when the City stop exempting the property from the zoning code, involving the Planning Commission in the process, off-site advertising implications, and spot zoning implications.

Hamaker – Believes that the City Council want to expedite certain projects and not complete projects behind the communities back. Would also like to see the recommendation tightened up with specific language changes.

Behr- The Planning Commission should present some kind of recommendation with wording brought up from Commissioners Crowe and Torgan.

Action: Recommend to the City Council not to approve the Zone Text Amendment for City Exemption from the Zoning Ordinance.

Motion: DeLuccio Second: Hamaker

Votes: Ayes: DeLuccio, Hamaker, Crowe
Nayes: Hewitt, Torgan, Altschul, Behr

Motion Fails

Action: Recommend to the City Council to approve the Zone Text Amendment for City Exemption from the Zoning Ordinance with clarified language as read into the record and including the following: 1) Use of Terminable use permits; 2) Exemption be specific to parking structures/facilities; 3) Exemption excludes specific plans; 4) Include a more substantive/expanded definition of subordinate and accessory uses; 5) Subsection K.2 would only be applicable to existing uses on the project specific to outside advertising; 6) Include a provision conforming to Government Code Section 65402.B and C, to allow the Planning Commission to recommend approval or denial decisions on acquisition, disposition of real property or construction of buildings; and the potential for spot zoning to be considered by the City Attorney

Motion: Torgan Second: Crowe

Votes: Ayes: Torgan, Crowe, Hewitt, Hamaker, Altschul, Behr
Nayes: DeLuccio

Motion carries

Action: Use of terminable use permits.

Motion: Torgan Second: Crowe

Votes: Ayes: All Ayes, on a voice vote
Nayes: None

Motion carries

Action: Recommend that the Exemption be specific to parking structures/facilities.

Motion: DeLuccio Second: Hamaker
Votes: Ayes: DeLuccio, Hamaker, Crowe, Behr
Nays: Hewitt, Torgan, Altschul

Motion carries

Action: Recommend to not exempt City projects from specific plans.

Motion: Torgan Second: Crowe
Votes: Ayes: Torgan, Crowe, Hewitt, Hamaker, DeLuccio, Altschul, Behr
Nays: None

Motion carries

Action: More substantive/expanded definition of subordinate and accessory uses.

Motion: Torgan Second: Crowe
Votes: Ayes: Torgan, Crowe, Hewitt, Hamaker, DeLuccio, Altschul, Behr
Nays: None

Motion carries

Action: Subsection K.2 would only be applicable to existing uses on the project site specific to outside advertising.

Motion: Torgan Second: Crowe
Votes: Ayes: Torgan, Crowe, Hewitt, Hamaker, Altschul, Behr
Nays: DeLuccio

Motion carries

Action: Add a provision to be in conformance with the State Law Section 65402.B and C, stating that the Planning Commission shall report to the City Council on acquisition, disposition of real property or construction of buildings. (The Planning Commission could recommend approval or denial of projects under this Government Code.)

Motion: Torgan Second: Crowe
Votes: Ayes: All Ayes, on a voice vote
Nays: None

Motion carries

C. Variance 2002-07 and Billboard Permit 2002-02: Request to permit an existing billboard to be relocated and raised approximately 10 feet in overall height. Continued from March 20, 2003.

Applicant: Regency Outdoor Advertising

Location: 8600-8616 Sunset Boulevard

Planner: C.J. Amstrup

Recommendation: Deny the request subject to the findings in the proposed resolution.

Chair Behr opened the public hearing.

Elinor Aurthur presented the staff report.

Hayk Martirosian presented the applicant's report.

Action: Move to Deny the recommendation, without prejudice.

Motion: Altschul Second: Hewitt

Withdrawn

Commission Deliberation

Behr – Inquired if the Commission has grounds to deny the request.

Altschul – The applicant has an entitlement based on his original request to build apartments with affordable units and is now asking, without adequate reason, to change the request to a tentative tract map. The Commission should not allow applicants to be approved to construct rental housing and return with a request to sell them as condominiums.

Torgan – The request removes affordable and low-income rental housing from the market. Section 5.a of the resolution should state “The removal of rental housing from the market would not be consistent with the objectives, policies and programs of the General Plan.”

Hewitt – States the difference with renting with ownership is there will be down payments, mortgages, and condominium monthly fees.

Christi Hogin – The General Plan favors several housing types and protecting rental housing is paramount, however state law precludes the City from compelling an applicant into the rental business.

Torgan – Since the Ellis Act does not compel an applicant into the rental housing business that they should adhere to procedures to remove units from the market.

Altschul – Doesn't agree with approving an applicant's plan to build market rate housing, and after displacing the residents return with a request for a tentative tract map.

Christie Hogin – The Zoning Ordinance does not make a distinction in use between rental and condominium, but rather multi-family, single-family, commercial and industrial. The units, whether rental or condominium, are multi-family uses.

Torgan – Believes that, based on the Housing Element, there is an inconsistency of which a finding can be made with the Ellis Act issue. The applicant should go back through the procedures for entitlements the City requires that are not before the Commission.

Hamaker – Stated that another applicant with an apartment building on Laurel came before the Commission with the same request and it was granted and doesn't believe the Commission should try to stop this applicant from doing the same thing.

DeLuccio – Stated that he would have preferred the property to be rental units and the application still helps the City reach its housing goals.

Behr – Stated that he didn't appreciate an applicant requesting one thing and turning around and doing the exact opposite.

Altschul – Would like the motion to include a direction to staff that the applicant, through the Department of Housing, investigate whether any displaced tenants are entitled to any money and/or benefits that they would have been entitled to under the Ellis Act.

Action: Adopt and Approve Resolution No. PC 2003-472, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD APPROVING TENTATIVE TRACT MAP 2002-07 ON AN APPLICATION BY 1050 EDINBURGH, LLC FOR AN 18-UNIT CONDOMINIUM AT 1042-1050 EDINBURGH AVENUE, WEST HOLLYWOOD" and direct the City to investigate as to whether all the proper fees under the Ellis Act were paid to the displaced tenants.

Motion: DeLuccio Second: Crowe

Votes: Ayes: DeLuccio, Crowe, Hamaker, Hewitt, Altschul, Behr

Nays: Torgan

Motion Carries

E. Conditional Use Permit 2003-01: Modification to an existing Conditional Use Permit to allow extended hours of operation for Bristol Farms Market and to allow alcohol sales for on-site and off-site consumption during the extended hours.

Applicant: Bristol Farms

Location: 9015-39 Beverly Boulevard

Planner: Paula Kelly

Recommendation: Conditionally approve the request subject to the findings and conditions in the proposed resolution.

Chair Behr opened the public hearing.

Paula Kelly presented the staff report.

Kevin Davis presented the applicant's report.

Public Comment

1. Jeanne Dobrin, West Hollywood, asked the Commission to disregard the list of supporters submitted by Bristol Farms because the signatures are not from West Hollywood residents and is undated. The applicants also do not provide adequate argument for their request to sell alcohol until midnight.
2. Lauren Meister, West Hollywood, although Bristol Farms is a responsible neighbor, recommends approving extended hours of alcohol sales for special events for a trial period and upon public review of the impacts, approve further operating hours.
3. Harriet Segal, West Hollywood, suggests' that condition 54, closing the entrance on Doheny, should be given further consideration because cars will have to travel onto other residential streets which could have an impact on the neighborhood.

4. Sharon Segal, West Hollywood, employee of Bristol Farms, stated that many Bristol Farms customers have voiced their support of the extended hours to her but were unable to sign the petition, and also clarified that she signed the petition on her own volition.
5. Nina Parkinson, West Hollywood, as a neighbor of the store, states that there have been noise issues and is not in favor of extended hours due to noise and traffic.
6. Dan Siegel, West Hollywood, not in favor of the extended hours, but if the hours are approved, suggested that the refrigerated alcohol section be locked during the extended hours due to the younger customers looking to buy beer before entering the local clubs and littering the neighborhoods with empty cans and bottles.
7. Ingeborg Sesanto, West Hollywood, opposed to the early opening hours due to the traffic and noise that comes from the alley, which her residence is next to.

Kevin Davis presented closing comments.

Commission Deliberation

Altschul – The public testimony was very minimal in regards to the negative impact of the operations of Bristol Farms. Believes that Bristol Farms should be given the competitive edge as other stores because they run a great operation and are also a wonderful corporate citizen.

Torgan – Clarified the time change on item 52 to 7:00 p.m.

DeLuccio – Is in opposition to the extended hours of operation past 11:00 p.m. and believes that midnight is too late to stay open.

Behr – Is in support of the motion because of the six-month review.

Action: Adopt and approve resolution No. PC 2003-473, “A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, APPROVING A MODIFICATION TO CONDITIONAL USE PERMIT 1998-05, TO ALLOW EXTENDED HOURS OF OPERATION FOR BRISTOL FARMS MARKET AND TO ALLOW ALCOHOL SALES FOR OFF-SITE CONSUMPTION DURING THE EXTENDED HOURS, with the following amendments: Delete item 54 regarding the closure of the Doheny Drive exit; Delete item 53 with regards to the rubber gaskets; to item 52, change the delivery hours to 9:00 am to 7:00 pm; and a review before the Planning Commission in six months.”

Motion: Altschul Second: Crowe

Votes: Ayes: Altschul, Crowe, Hamaker, Hewitt, Torgan, Behr

Nays: DeLuccio

Motion carries

Item to return to the Planning Commission in November for a six-month review.

11. UNFINISHED BUSINESS

None.

12. NEW BUSINESS

None.

13. ITEMS FROM STAFF

None.

14. PUBLIC COMMENT

- a. Dan Siegel, West Hollywood, reported that customers of Petco are allowing their dogs to relieve themselves on the lawns or residents. Petco is supposed to provide, as a condition in their permit, a place for customers to walk their dogs and supply pooper-scooper bags and are not complying with either condition. Recommends that they be brought to the Commission for review of their conditional use permit.

15. ITEMS FROM COMMISSIONERS

Torgan – Requested a report from staff on Petco and their conditional use permit.

DeLuccio – Also requested that staff look into the Petco issues along with the dumpster located behind the store, which always appears to be overflowing with trash.

Behr – Directed staff to send Petco's corporate office a letter outlining the problems reported and if they do not come into compliance with their conditional use permit that they will be scheduled for a revocation/modification hearing.

Hamaker – Asked staff for an update on Sky Sushi and the pool tables that were removed from their restaurant.

16. ADJOURNMENT

Action: Adjourn to a regular meeting of the Planning Commission on Thursday, May 15, 2003, at West Hollywood Park Auditorium, 647 N. San Vicente Boulevard, West Hollywood.

Motion carried by a consensus of the Commission.

PASSED, APPROVED AND ADOPTED THIS 5th DAY OF JUNE, 2003.

CHAIRPERSON: 

ATTEST:

COMMUNITY DEVELOPMENT DIRECTOR: 