



PLANNING COMMISSION MINUTES
Regular Meeting
September 17, 2009

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

1. CALL TO ORDER:

Chair DeLuccio called the meeting of the Planning Commission to order at 6:38 P.M.

2. PLEDGE OF ALLEGIANCE: Bruce Robertson led the Pledge of Allegiance.

3. ROLL CALL:

Commissioners Present: Altschul, Bernstein, Buckner, Guardarrama, Hamaker, Vice-Chair Yeber, Chair DeLuccio.

Commissioners Absent: None.

Staff Present: Nathan Gapper, Associate Contract Planner, Bianca Siegl, Associate Planner, John Chase, Urban Designer, John Keho, Planning Manager, Anne McIntosh, Deputy City Manager/Community Development Director, Lauren B. Feldman, Acting City Attorney, and David Gillig, Commission Secretary.

4. APPROVAL OF AGENDA:

ACTION: Approve the Planning Commission Agenda of Thursday, September 3, 2009 as presented. **Moved by Commissioner Altschul, seconded by Commissioner Hamaker and unanimously carried.**

5. APPROVAL OF MINUTES.

A. September 3, 2009

Commissioner Hamaker stated there were various phonetically misspelled words on pages 14 and 18. Corrections should be recaptured from the original transcript.

Vice-Chair Yeber requested his statement on page 18 of 26 (12th paragraph), should be corrected and recaptured from the original transcript.

ACTION: Approve the Planning Commission Minutes of Thursday, September 3, 2009 as amended. **Moved by Commissioner Bernstein, seconded by Commissioner Hamaker and unanimously carried.**

6. PUBLIC COMMENT.

ED BUCK, WEST HOLLYWOOD, commented on current water main breaks and infrastructure issues.

7. ITEMS FROM COMMISSIONERS. None.

8. CONSENT CALENDAR. None.

9. PUBLIC HEARINGS.

A. 1019 N. San Vicente Boulevard.

Demolition Permit 2005-015, Development Permit 2005-023, Tentative Tract Map 2005-007:

Applicant is requesting to demolish four units and construct a five-unit condominium project.

ACTION: 1) Continue to Thursday, October 15, 2009. **Moved by Commissioner Altschul, seconded by Commissioner Buckner and unanimously carried as part of the approved agenda.**

B. 928 N. Fairfax Avenue

Administrative Permit 2007-065:

Applicant is requesting approval to rehabilitate an existing commercial building and replace a billboard.

[VERBATIM TRANSCRIPTION]

Provided and certified by Written Communications, Inc.

DeLuccio: 9B. We'll go to that now. And that's 928 North Fairfax Avenue. And we're going to reopen the public hearing. And that's for the property at 928 North Fairfax Avenue. And we'll get a staff report from Nathan Gapper, please. When that cell phone is turned off.

Altschul: That cell phone has rung several times.

DeLuccio: I know.

Altschul: Whose cell phone is that?

Dobrin: (INAUDIBLE) my hearing aid.

DeLuccio: We're going to take the cell phone away from that person. Okay, Nathan.

Gapper: Thank you. Good evening, Chair DeLuccio, members of the Planning Commission. My name is Nathan Gapper, Contract Associate Planner. The item before you this evening is Administrative Permit 007065. It's a request to remodel an existing commercial property and replace a billboard in the East Side redevelopment area. The applicant is Erick Ifergan, and he's represented by the architect, San Besbelli. So this aerial view of the project shows the subject site outlined in green with Fairfax Avenue to the west. The site is zoned commercial neighborhood with existing commercial uses to

the north and south and residential uses to the east. The applicant is requesting a permit to rehabilitate the structure, including interior tenant improvements, landscape improvements, and façade changes. This slide shows the existing façade along Fairfax Avenue. On August 27th, the Design Review Subcommittee commented that allowing the window to remain without additional articulation to the façade would not be satisfactory architecturally. This rendering shows the architect's modified design notching the southwest corner of the structure and replacing the corner window with a diagonal window. The applicant is also proposing to replace a billboard that was removed in 2007 after the application was filed. The proposed billboard would be 12 feet by 24 feet and 42 feet in height to match the size and height of the previous billboard. At the August 20th hearing, the Planning Commission directed Staff to schedule a public hearing to provide opportunity for further deliberation on the project. This concludes Staff's presentation. Thank you.

DeLuccio: Okay. Thank you. Any questions for Staff at this time?

Yeber: I have just...

DeLuccio: Marc?

Yeber: ...a quick question. Nathan, since a new, seems to be a substantially new design submitted, is Staff's position still the same as it was originally? Has Staff reviewed this material? I mean, has Staff re-examined the material in light of this new design and come with, come to a similar conclusion as it did originally? There's no mention of that. That's why I was wondering.

Gapper: Sure. The primary issue that Staff focused on for the original hearing was the replacement of the billboard and whether or not it was, the removal of the billboard was necessitated by the rehabilitation on the site. As far as the architecture goes, I don't know if John Chase is available and wanted to recommend, or comment on that.

Chase: I'm sorry. The, the architecture of the...the response by the applicant is clearly an effort to do something more than have the existing blank wall. But it is a different cosmetic treatment of the building, and it doesn't change the essential nature of the project. We haven't had the opportunity to take it back before the Design Review Subcommittee, but it...the...while the Design Review Subcommittee had comments on the project itself, the design of the project in detail such as whether or not that corner window is a chamfered corner over it, or whether or not it's treated as a sculptured box with a hole in one corner. In other words, whatever formal attitude is taken towards re-styling that box only matters if that project is found to have qualified for the, have qualified the billboard as a new project. So it essentially doesn't change the scope of the project, that was the real issue for the Planning Department. And in terms of the request of the Design Review Subcommittee, there was really a concern about avoiding a blank box. So whether or not having a configured box that actually has a smaller area window answers that concern is still an open question.

Yeber: Thank you, John. Maybe John Keho or Nathan...what was the concern...what was central to the issue that raised concerns with Staff in the, in your original findings? If you could just remind us.

Keho: Maybe Nathan can follow up after I make a couple of comments. I think Staff was concerned with the...as Nathan had indicated earlier, that necessitated...in order to do the changes that the applicant is proposing on the project, the remodeling, the additional treatments, outdoor patio, that area...that actually require the billboard to come down in order to do those things. Or was there some other way that an applicant could do essentially the same thing and leave the billboard where it was and not have to touch the billboard. And so our review of this initially was that, you know, the changes they are

proposing did not necessitate the removal of the billboard in order to do the changes and then put the billboard back after the changes were done. And so the changing in the corner of the building, that's clearly not required because of removal of the billboard.

Yeber: *So therefore, it doesn't...it still doesn't meet the finding in terms of a substantial change in the project?*

Keho: *Right. So when Staff's original recommendation was for denial and changing the treatment of the façade is certainly an improvement, but it didn't change the overall context of our analysis.*

DeLuccio: *That was your main reason for recommending the denial, because of the billboard?*

Keho: *Right.*

DeLuccio: *Okay.*

Buckner: *However, the Commission did vote to approve the project, but send it back to the Design Subcommittee to deal with the design issue that the Commission was concerned about.*

DeLuccio: *Did this ever go...then we had a resolution come back to us for approval, and then we decided on reconsideration, and then...so in the meantime, it never went back to Design Review?*

Gapper: *It did.*

DeLuccio: *It did go back.*

Gapper: *Yeah.*

Buckner: *Yes, it did.*

Gapper: *It did go back on the 27th of August.*

Bernstein: *I have a question.*

DeLuccio: *And is this what the Design Review members saw at that meeting?*

Bernstein: *This is my question for this acting City Attorney.*

DeLuccio: *Alan?*

Bernstein: *Because at this point, if I'm a little confused, I can only imagine anyone who's following this may be rather confused. We did pass a motion in July supporting the request contingent, though, as I understood it, upon the successful return to Design Review. I think it would be fair to categorize the return to Design Review as unsuccessful. But in the meantime, we also agreed to reopen the hearing. So we're sort of in odd limbo, and if you could give any clarification on that, it would be very helpful to me.*

Feldman: *That's....*

Keho: I would like to point out that it's not uncommon for the Planning Commission to approve a project with further review by the Design Review Subcommittee. So quite frequently, that is one of the conditions. So that's not an unusual one that says, you know, the project is denied necessarily, that, you know, that if they don't make those changes, that the project is no longer approved. Basically, it's...they need to make those changes, and you work with the Design Review Subcommittee to come up with something that's approvable.

Feldman: Correct. So then at the last meeting when the item came back before you for whatever reason, the Planning Commission decided that they wanted to consider this further, so they re-noticed it to reopen the public hearing and consider more testimony tonight. But the same issues are still before you. And you'll see that in your packet, both resolutions that have been before you at the two different hearings are in here. And so you'll take more testimony. You'll weigh all of the evidence that's presented before you. And you'll decide as a group if the findings can be made or not, and you can adapt one of the resolutions either for or against that's in the packet tonight.

DeLuccio: Okay.

Feldman: Does that answer your question?

Bernstein: Yes.

Feldman: Okay.

Bernstein: Thank you.

DeLuccio: Thank you for that clarification.

Altschul: And putting it simply, the major issue here is, as I understand it, the long-standing policy stated both in the General Plan and I believe the Zoning Code, that if you're not on Sunset Boulevard, once you take down a billboard, it's amortized out. Is that stating it fairly?

Keho: That's essential correct. However, there were some caveats created for projects that are City-related and for redevelopment projects in the redevelopment area, which this property is located within.

Altschul: And it's...but it's your conclusion and your opinion that some of the exemptions that were carved out do not, or the exemptions that were carved out do not apply to this project.

Keho: They apply to the project, but this project doesn't meet the criterion.

Altschul: It doesn't meet the criteria is what I wanted to say.

DeLuccio: And John, it doesn't meet the criteria because you didn't have the opportunity to really evaluate whether the sign should have come down or not. Is that correct? The sign was already down after an application was filed?

Keho: No, it's whether or not the changes they're proposing on the building would have necessitated it. We think we can make that decision even if the billboard was down, that the billboard didn't have to come down to do the things they're wanting to do.

DeLuccio: It did not have to come down?

Keho: Right.

DeLuccio: Is that your conclusion?

Keho: That was our conclusion.

DeLuccio: Okay. I drove by the site today just to see it again. Are there any disclosures since the last time it came before us?

Altschul: I drove by it yesterday.

DeLuccio: Okay. Why don't we open up the public hearing at this time? We have opened it up, and hear from the public. And then we can deliberate and hopefully come to some kind of a decision this evening. San Besbelli to be followed by Rob Bernstein.

Feldman: Applicant?

DeLuccio: Yes. You're the applicant, so you'll have ten minutes. If you can just state your name and city of residence.

Besbelli: Okay. My name is San Besbelli. I'm the architect working on this project. I would like to point out one thing that's being talked about just now, is that what is necessitating the removal of the billboard in this project scope is not the façade, but the development of the patio into a outdoor space which can be enjoyed by the owner and as well as the pedestrians walking by, by introducing a glass wall and making the landscape visual from the street. So another reason...this...let me tell you this. This patio is the epicenter of this project, because we are not adding any square footage to the building by covering the patio. Actually, we have tried that long time ago, but City required additional parking spaces to occupy the ground floor area, and not only that, they required two additional parking spaces, one of which would be a handicap parking space, would be maneuvering within the property and getting out of the property head on. So we studied the case with various schematics, and we found out that it completely erases the commercial value of the property because it takes away the entire ground floor area. If you can refer to the site plan in your packages, which is A-11, you will see that this is a very tiny property. There is no way this patio can be enclosed, and so that the building would be, you know, more substantial. So what this makes, what this creates is, you know, it makes the patio as an outdoor space the epicenter of this project and the design. The reason why we are proposing this wall on the south side of the property as three major reasons, one of which is security. As you can see, this property is located, positioned between on the north, a repair, car repair facility, and actually a junk yard. If you look at the board and the packages that were given to you, you would see that there is a vacant lot on the south side of the property from which frequently people break into this property and vandalize it. It has happened many times, according to the applicant. And one can see, you know, beer cans and vodka bottles and all kinds of, you know, alcoholic beverage remnants on the property, daily basis. So we would like to, I mean, we are creating this new renovated building. Of course, we would like to secure it from such intrusions from the south. So what we are doing is we are proposing this tall building, tall wall, to, you know, for that purpose, for one. And let me look at my notes. The second one, of course, is the noise control. Fairfax is a fairly busy street day and night. And since we are, you know, putting all this effort to create this patio, we would like to have some sort of a sound barrier, both in the front and on the sides, so that the window that we're opening on the main building, if you can refer to the sheet, Number A-3.1, you will see the Number 3 shows that we are opening two existing windows into one large opening, so the interior of the building will be more exposed to the noise. So in order to cut that, we are proposing one, this tall wall on the south side, and two, the glass

sound wall on the Fairfax side, which is both cutting the noise and also allowing visual contact and continuum towards the interior of the building. And so, and also this structure needed to be made out of noncombustible materials per California Building Code because it's on the property line. So putting all these things together makes this patio, especially this wall, very important part of this design. And if you can refer to page A-0.1, which is a patio detail, and you can also see that in front of you, one of those boards, you will see how erecting this wall and its foundation conflicts with the existing billboard foundation. Also illustrated in the next page A-0.2. So in order to build this wall, this billboard had to come down anyway because their foundations get into each other. And on the other hand, this existing old billboard had structural damages. So we did not see any reason to go out of our way, try unprecedented construction techniques, to save some substandard dangerous billboard structure. So we thought that since this ordinance that was in effect when the application was made allows us to replace the billboard with a new, modern seismically strong structure, so this, right there, creates no reason to, you know, try some unorthodox construction techniques which are probably unfeasible to do anyway, to erect this wall. So here, to the contrary, this project complies with all the requirements of this particular ordinance. The application has been made timely. The amount of money allocated for this project exceeds 50 percent of the replacement value. And the construction of such patio and wall necessitates the removal of the billboard. Therefore, it should be approved. Now going back to the design. We tried so far three design solutions. The part of the design that was apposed to was the white portion of the building. There was no opposition to any other part of it, because it clearly satisfies the criteria. So since that blank wall didn't work out, this time we completely abandoned that, and we started from scratch. And we actually took some inspiration from, you know, Japanese origami and the Chinese tanagram puzzles to create this new angle to this entire building. If you look at the existing building, there are only two angles to the building, which are perpendicular to each other throughout the building. Side walls, the front, rear, and all that. So we did, we thought if we could take out that corner window and replace it with a diagonal one, which introduces a new dimension to the project, and carve out the top and bottom portions to create some sculptural image. And we were hoping that that would satisfy the criteria. And this is where we stand now. Thank you so much.

DeLuccio: Thank you. Any questions? I have a question actually.

Besbelli: Sure.

DeLuccio: Besides this window here on the existing building, there's, I believe there is an opening to get out into the patio. A door, a door that goes past?

Besbelli: Yes, yes. That's on the ground floor.

DeLuccio: Is that part of...I don't...can't see everything in front of me. All I just see is the window. Is there...there's a tree blocking, blocking it here. Is that, would that win...would there be a door also in the, on that access?

Besbelli: Yes. That's the main access door to the building. If you....

DeLuccio: That would, that still would exist? That access door?

Besbelli: Yes.

DeLuccio: Okay.

Besbelli: that will be existing. And also, we're going to replace with a nice aluminum...

DeLuccio: Okay.

Besbelli: ...since we are making a large opening on the main building, looking towards the glass sound wall, we are going to match that same window frame and replacing all the existing old door frame and, with a new one.

DeLuccio: Thank you. And Marc, you have a question?

Yeber: Yes. You just mentioned in this testimony that you had determined that the structure for the billboard was unsafe.

Besbelli: Yes.

Yeber: And you went ahead and had it removed. And so...go ahead.

Besbelli: We didn't have that removed. That was removed by the company who was operating it. And actually, I would like to say something about that. Because although City claims that the people who are operating the billboard obtained a permit to do so, they never obtained a consent from the property owner to get into the property and remove it. They basically trespassed and took it away. So there is some gray area there that also puzzles us.

Yeber: Okay. Thank you.

DeLuccio: All right, John.

Altschul: Which billboard company operated the billboard?

Besbelli: I do not know, sir. That was one of those along the Fairfax Boulevard. I don't know their name, but probably it could be found out through the records, because they claim that they obtained the permit to remove it. But we never saw any permit. I mean, not....

Altschul: The lease....

Besbelli: I'm just talking about....

Altschul: Was the lease for the billboard expired?

Besbelli: Yes, it was.

Altschul: The lease for the billboard expired?

Besbelli: Yes.

Altschul: So the, when you took it down, there...when it was taken down, there was no image on it?

Besbelli: I do not know. There was no image? You mean there was no display?

Altschul: There was no, there was no....

DeLuccio: Advertisement.

Altschul: No ad on it?

Besbelli: There is no advertisement on it?

Altschul: Yes. When you took it down.

Besbelli: I do not know. I wasn't there, but....

Altschul: Did you see it before it was taken down?

Besbelli: Oh, yes. I saw it before it was taken down.

Altschul: Did....

Besbelli: Because I've been working on this project for years.

Altschul: When you saw it before it was taken down, was there any advertisement on it?

Besbelli: There were always advertisements on it. But I didn't, I wasn't present at the moment or just prior to the moment they were taking it out. I wasn't there. So I do not know. But probably there was.

Altschul: Do you know when the lease expired?

Besbelli: I do not know exactly, but we can find out.

Altschul: Property owner. Is the property owner here tonight?

Besbelli: No. He's outside the country.

DeLuccio: Okay. If there's no further questions....

Hamaker: I have a, I have a question.

DeLuccio: Barbara?

Hamaker: Is it usual for a property owner to construct the structure for a billboard? And, and elicit a billboard company to then lease it from them?

Keho: We know that billboards are put on prop...are owned...some of them are owned by the billboard companies, as in this case, it was owned by the billboard company. And in other cases, they're owned by the property owners. It's pretty frequently, though, that the billboards themselves are owned by the billboard companies and not the property owner. And so the property owner just has a lease agreement with the billboard company.

Hamaker: So the billboard company comes in and actually constructs?

Keho: Right. We've had that in other cases where there's been a dispute between a property owner and a billboard company, and so the billboard company will come and...this is on Sunset I'm talking about...come in and get a permit to legally take the billboard down because it was their billboard. And then the property owner has to make an agreement with another billboard company to come in and erect a billboard in its place.

Hamaker: Okay. Thanks.

Altschul: Is this....

Guardarrama: *I have a really quick comment.*

Altschul: *Oh, I'm sorry.*

Guardarrama: *Item former Exhibit 9, or...sorry...former Exhibit D shows that the operator was Viacom. There's a photo.*

DeLuccio: *Okay. So that's the operator, which is now...Viacom's bought out by CBS, I believe. So CBS is the operator. John?*

Besbelli: *Probably.*

Altschul: *Did Viacom get a permit to take it down?*

Keho: *I, I think what he might be misunderstanding is, we were saying that the application to do the replacement, their application, came in while the structure was still up. I don't believe they took a permit out to take the billboard down. They came in, as he indicated, without their permission to take the billboard down.*

Besbelli: *So they clearly trespassed the property.*

DeLuccio: *Okay. Thank you. We'll give you a chance for rebuttal at the end.*

Besbelli: *One more thing.*

DeLuccio: *At the end. At the end you'll have five minutes.*

Besbelli: *Okay. Thank you.*

DeLuccio: *Thank you. Rob Bergstein to be followed by Lyndia Lowy.*

Bergstein: *Good evening, Honorable Commissioners. My name is Rob Bergstein. I'm the Vice Chair of the East Side PAC. I don't really have anything new to say tonight. We're still, believe that this does not meet the minimum criteria under the former ordinance. The architect admitted when asked at the PAC meeting if the work could be done without the removal of the billboard. He said yes, it'd be more difficult, but the work could be done. So again, we support the Staff's recommendation to deny the replacement of the billboard.*

DeLuccio: *Okay. Thank you.*

Bergstein: *Thank you.*

DeLuccio: *Lyndia Lowy followed by Jeanne Dobrin is the last speaker.*

Lowy: *Hello. I'm Lyndia Lowy. I'm also a member of the East Side PAC. Lifetime resident of West Hollywood. And lifetime residence of the East Side of West Hollywood. I am in complete agreement with the City plan, which is to reduce the number of billboards in the Eastern part of West Hollywood. And since I understand the two of you Commissioners have traveled on Fairfax Boulevard recently, I'm sure you had a chance to count the number of billboards in West Hollywood that are on Fairfax Avenue right now. And the thing is that there are a lot of them. And the goal of our plan is to reduce the number of billboards. That has been done. And that has been done by a billboard company who seems to feel that they were not going to lose any revenue by having one less billboard on Fairfax. And the thing is that we already heard from the applicant that that particular structure was unsafe. We've also heard from the applicant*

that the renovations that they were proposing to do to their building did not actually incorporate the billboard structure with the renovations, that the renovations that were being done, which I fully support...I think it's making the building much more architecturally interesting...and adding to the ambience that we want to create on Fairfax Avenue. But the thing is that the billboard itself detracts. And you can actually see from the model which does not have the newest part, that that billboard actually takes away from the building, because by definition, the advertising is what the company wants you to see, not the building. And what I as a resident of West Hollywood would prefer you to see is the building. So I am not in favor of having this billboard replaced. I think it's against our plans. I think it's against the image that we want to present on Fairfax Avenue for the City of West Hollywood. Thank you.

DeLuccio: *Thank you. Jeanne Dobrin to be followed by Steve Martin. While Jeanne's coming up, I actually have a question of Staff. I know we're very focused on the billboard. A lot of the....*

Dobrin: *Jeanne Dobrin, resident of West Hollywood.*

DeLuccio: *Jeanne, one second.*

Dobrin: *I want to tell you that my....*

DeLuccio: *Jeanne.*

Dobrin: *...hearing aid was causing the trouble. So I took it out. So I can't hear anybody speaking to me. Page 7 of 8.*

Female: *Just a minute.*

DeLuccio: *Jeanne, can....*

Dobrin: *First of all, I agree absolutely with what Ms. Lowy has said. If you look at page 7 of 8, you will see that the façade changes are not compatible with existing structures in the vicinity, et cetera, et cetera. Also, the last paragraph, part of the first paragraph 7 of 8 says that this work is not of a scale or nature that would provide replacement benefits in the East Side redevelopment area as intended by the implementation of Section 19.34.08 1.J. These minor cosmetic alterations do not change a thing. I went to the Design Review Committee, and I wanted to tell you that I believe that I, I do not see what use this building has been put to by any way at all or spoken of. I think it's just a blank façade, and the main use of it is to ensure tens of thousands of dollars for the billboard that is above it. I also want to tell you to look at the model. That is a hideous looking thing. Fairfax is damaged by that thing. That huge thing standing up that supposedly would replace the billboard looks like an overgrown gas pipe. And Ms. Lowy is correct with everything that she said. The...as I said, it doesn't show any use whatsoever that this building is to be put to. I would like the Commission to ask the Staff if there is any use ever. The removal of the billboard was by the billboard company because they believed that the structure supporting it was unsafe. That's a good reason for removing it. At the Design Review Committee, the architect who has worked so hard on this, and I feel sorry for him, but he constantly pleads a low budget. That is not your concern. Not at all. I believe that this criteria is not met in this case, especially putting up the billboard again would be allowed if it met the development benefits, and there are no redevelopment benefits that accrue from approving this billboard. Please deny it. Thank you.*

DeLuccio: *Okay. Last speaker is Steve Martin. And then I will ask my question of Staff before we call, call up the applicant.*

Martin: Well, if you ask it first, I won't interrupt you.

DeLuccio: Well, thank you. I appreciate that.

Martin: Steve Martin, West Hollywood. It's...I certainly want to second everything that Ms. Lowy said and Jeanne Dobrin said. Because they're certainly very articulate. Just to give a long view that Jeanne usually gives, is that this is...the City's goal has always been to amortize out and try to reduce the number of billboards outside of the Sunset Strip. We love the billboards on the Strip. But that's like a completely different atmosphere. And if a billboard is falling down, it's not allowed to be replaced, and it shouldn't be replaced. And this really, unfortunately, with the whole advent of tall walls, we've all seen how the tail is now wagging the dog, where advertising revenue is changing the whole look of the City, the architecture, and this is just a good place to, to draw the line. And it's a very reasonable place to draw the line. And I'm hoping you'll go with Staff's recommendation. Thank you.

DeLuccio: Okay. Thank you. Let's call...I'm going to call the applicant back up. San Besbelli. But I'm going to...before you conclude, I want to ask Staff a question, okay?

Besbelli: Sure. Go ahead.

DeLuccio: So one second. Okay. So I'll ask Nathan. Looking at the building, under our Zoning Ordinance, does it require a certain percent to be articulated with windows and, and other elements?

Gapper: Yes. The Code does require at least 50 percent on the second floor, 50 percent of the building frontage to be articulated or somehow show architectural dimensioning. In this case, this proposal is improving, could be seen as improving the, what was there previously. So it would be bringing the building into closer conformity with that requirement of the Code.

DeLuccio: But does it meet the Code?

Keho: Because this isn't a new construction, we wouldn't say it has to meet that Code because...

DeLuccio: We have....

Keho: ...because it's a non...correct. You have discretion.

DeLuccio: We have discretion as a Commission?

Keho: Right. Because it's a non-conforming building that's already there.

DeLuccio: Okay.

Keho: And so they're trying to bring it more into compliance.

DeLuccio: Okay. Thank you. Okay. Jeanne, you had your turn, okay?

Dobrin: But I....

DeLuccio: Jeanne, you are out of order. San Besbelli, would you please give your testimony?

Besbelli: Okay, sure. One of the things one of the speakers mentioned that I myself admitted that, during the PAC meeting nothing in this project would necessitate the removal of the billboard. I think it's either a misunderstanding or I misunderstood their question, because clearly, that's not the case. I apologize if I misunderstood their question and answered it in a wrong way. The second thing is that now we see people are completely against billboards. And it's very understandable. Billboards, you know, are eyesore or whatever. Some people like them. Some people hate them. But if City of West Hollywood wants to remove the billboards, I don't think this is the place to do so. There is a legislative process. And actually, the applicant asked me to convey a message to you, which is that if city of West Hollywood passes a law that bans all the existing and future billboards, he will be the first one to bring this one down. This is not, right now, and when this application was made, there is, there was, there is a ordinance in effect. And this project complies completely for all, with all the requirements of this ordinance. And we do not see any reason why this should be rejected, just because billboards are politically incorrect. As I said, this should be addressed in the legislative process, not in the executive process, which this involves, because we did everything to comply with this ordinance, and we want this project to be approved. Thank you.

DeLuccio: Sir, I have one question. Actually, I'm looking at these sketches up here, which I guess you presented.

Besbelli: Yes. Yes.

DeLuccio: It's interesting. I don't see any billboard presented in the sketches. It would have been interesting to have seen how the billboard would have looked against the building.

Besbelli: We, we, you know, included that into the model.

DeLuccio: I see. But I think it would have been...I would have found it more interesting if it was....

Besbelli: In this, in this rendering, that would be higher. So you would only see the bottom of it.

DeLuccio: I thought it would have been more interesting to me, helpful to me, if it was also shown in your sketches. But thank you. Are there any other questions for the applicant? Thank you, sir. Any questions for Staff?

Besbelli: You're welcome. Thanks.

Bernstein: Yes.

DeLuccio: Alan?

Bernstein: A couple of questions about the billboard replacement at...one is, I know that the Staff is not satisfied in the recommendation that it was necessary to take down the billboard, but Ms. Dobrin alleged that there wasn't substantial enough rehabilitation, which is another finding that we would have to find. Is Staff satisfied that there is substantial rehabilitation provided under the plan from the applicant?

Gapper: The Code actually gives some specific detail in when that requirement is satisfied. And it says that the cost of the rehabilitation needs to be at least 50 percent of the replacement cost of the building. So the applicant submitted those cost numbers for both the replacement and the rehabilitation that was being proposed. And that was reviewed by our Building Division, and they felt comfortable with those numbers. And so Staff feels comfortable with those numbers as well.

Bernstein: *I'm also curious. Do you know when this Code was put in place? Which is now defunct. This....*

Gapper: *Yes. I believe it was....*

DeLuccio: *2003, I think.*

Gapper: *It was 2002.*

Bernstein: *Yes. 2002. And, and did the PAC have a position on it at the time?*

Keho: *I don't know that.*

DeLuccio: *Thank you. Any other questions? The, the....*

Hamaker: *I can ask (INAUDIBLE).*

DeLuccio: *Why don't we go into deliberation then? Who would like to start?*

Yeber: *Barbara, since she can answer.*

DeLuccio: *Barbara?*

Hamaker: *I'll just make a comment about the last question. There was a lot of heated debate about it. And Greg Ritchie, whom some of you may remember who was a really, really dedicated East Side person, was furious about the ordinance, and, and felt that, that was a license for, you know, we, we wanted to retire the billboards. And he did not like this ordinance. And there were a lot of people that didn't like it. I don't recall if there was a vote on it. I'm sure that there were hours of debate about it.*

DeLuccio: *Thank you, Barbara. John?*

Altschul: *Well, the applicant, in all of his testimony and rebuttal, made all of the cases for keeping the billboard down. He argued for a legislative process rather than doing it here. And there is a legislative process. There is legislation. There is an ordinance that says if a billboard is falling down, unless it's on Sunset, you cannot replace it. And that wasn't passed just in reaction or as a result of what was done on this property on Fairfax. So, and I think Ms. Lowy and Mr. Martin and Ms. Dobrin gave all of the reasons why the billboard should not be replaced, as did the Staff, in that it did not meet its criteria for any, for exemptions to the Amortization General Rule. **So I would move to approve the application in part and deny the application in part, that being to improve the re-design of the building, and to deny the replacement of the billboard.***

DeLuccio: *I'll second that. I think that's a really good compromise. Because the applicant is trying to improve the building, and I would like to have seen more articulation on the building. But this is definitely an improvement over what is there right now. And I, I agree that I did not feel the applicant convinced me that the billboard should remain. So I, I....that's what I...I will second your motion. Any other discussion on this?*

Feldman: *I think we're just going to need a little bit of time to figure out how to combine these two resolutions.*

DeLuccio: *Okay.*

Feldman: *So that you can do that on the record.*

DeLuccio: *We'll have deliberations in the meantime, and then we'll...*

Altschul: *There wasn't....*

DeLuccio: *No. There's not one (INAUDIBLE).*

Feldman: *There wasn't a third option, no.*

DeLuccio: *Is there any other, any other comments?*

Guardarrama: *I was the person that made the motion to approve this project at, at our prior meeting, not immediately prior, but a couple times before. And since then, I had a chance to think about it more, and I really feel like I made a mistake in doing that. And I'm really glad that there is a process where we can reconsider it, and I can admit that I made a mistake, and that we can make things correct. I really don't feel that the first criteria on, of the requirements is met, that I believe this project could have been constructed without affecting the foundation for that billboard. And so I support the motion.*

DeLuccio: *Barbara? Go ahead.*

Hamaker: *Make a couple of comments. In 2003 when, when apparently this ordinance was, was suggested and passed by the City Council, the East Side project area was desperate to have some of the storefronts on Santa Monica Boulevard on the East Side rehabilitated. There, they're all...they were all built mostly in the '20's and '30's when little companies were ancillary uses to the film industry there. They were whatever. And now they've sort of turned into pawnshops and, and not so interesting places. And what had been envisioned was a really wonderful retail space. And the carrot was if they did that, they could have their billboard. They could keep their billboard. That, unfortunately, hasn't happened. And we haven't had a lot of development except for the large commercial spaces which we're thrilled are in process of coming to fruition. So my feeling is that this project, as, as John Altschul and the other members of the public eloquently stated, does not meet the intent of the original ordinance at all. And I completely agree that whatever is being done to the building could certainly have been done without the removal of the billboard.*

DeLuccio: *Thank you, Barbara. Sue?*

Buckner: *Yes. I'm not as convinced that...and I don't know exactly how I'm going to vote at this point. But I'm not convinced. The City Council adopted an ordinance for replacement of billboards within the East Side Redevelopment area for projects that undergo substantial rehabilitation. A question was asked of Staff whether the Staff believed that the, this project met that definition of substantial rehabilitation. And Staff said yes. Okay. And I think substantial rehabilitation, and they defined it...they said that it had to be over 50 percent, had to...the cost of the rehabilitation or the remodel or whatever they were doing, had to be 50 percent of the value of the property. And they said that it met it. So now I hear everybody saying that it doesn't meet the intent of the ordinance, but in fact, the argument, if you follow it logically, would not support what my fellow Commissioners are saying. It's...I'm a little confused. And I'd be...I'm here to be, you know....*

DeLuccio: *I think your fellow Commissioner's going to help you understand it better.*

Guardarrama: *You're absolutely correct that it does meet the 50 percent replacement cost requirement. And it meets the other criterion. But the one that it doesn't meet is that there is a requirement that the removal of the billboard must be necessary in order to do the work. And Staff found that not to be true.*

DeLuccio: Right.

Guardarrama: The applicant says that it is true. So it's...we're the finders of fact, and we can go either way on it.

DeLuccio: Barbara?

Hamaker: I, I guess my, my feeling, and I understand exactly what you're saying, Sue, is that to my mind, money is...replacement...50 percent of the value...the money part of it is not what matters. It's the visual. They could put gold-plated windows and do absolutely nothing, and that would meet the 50 percent money requirement. The money is not the issue. It's what the East Side looks like that is the issue. And we want the East Side to be wonderful, not what it is.

DeLuccio: Sue, you have anything further? Does that help you?

Buckner: Some.

DeLuccio: Okay. Thank you. Alan?

Bernstein: Yes. Like Sue, I'm, I'm frustrated by this and challenged. I, I think it's clear that we don't like billboards anywhere other than Sunset. I think it's also clear, as we all know, that our neighbors to the South CD-5 have gone on an orgy of billboard and tall-walling, and that it puts us at a competitive disadvantage economically that they're doing that. But most fundamentally, in the wisdom of people who were here and on Council before me in 2002 or 2003, there was a plan made for billboard replacement. And I continue to be struck by what the Chair of the PAC said the last time we met about this, which is that the applicant barely made the requirement. And that is frustrating to me because barely, for policy, should probably be good enough. That being said, I would also point out that with the exception of Joe, who did a very honorable thing and admitted he made a mistake, we also found that there was sufficient reason to have to replace the billboard. But we also found, and I was a very strong advocate for this, that the design was not what we wanted it to be, and we asked that it come back to Design Review, and it did. And we were not satisfied. And I see that there are changes made, but I am still not satisfied with them. I, I think that I'm probably going to wind up voting with the majority is my guess, but I have to say not for the reasons that most of my fellow Commissioners are articulating.

DeLuccio: Marc?

Yeber: Yes. I, too, was...when this originally came, I was troubled by what was presented, you know, especially the testimony that said that they had to remove the billboard, and yet we didn't have any engineering report or any information. And I was very reluctant to go along with my fellow Commissioners at the time. And you know, but feel strongly right now that, you know, it doesn't, even if it meets that 50 percent, that certainly was not the intention. It wasn't the spirit of that ordinance. And the whole purpose is not so much, you know, a look, but it's supposed to be an improvement for a neighborhood. It's supposed to contribute to pedestrian activity and, and a neighborhood character. And you know, everything we've seen so far just isn't there. And so, you know, I'm, you know, I'm troubled because I voted one way, and I'm feeling really conflicted about it right now.

DeLuccio: Okay. Did Staff come up with a resolution?

Feldman: Yes. We're going to do this.

DeLuccio: Okay.

Feldman: Together.

DeLuccio: Go for it.

Keho: So I'm going to be starting by taking off from the resolution that was for approval. That's the one where we're going to start.

DeLuccio: One's for approval, what you're working with? Okay.

Keho: That's what we're going to....

Feldman: 09-878.

Keho: 878.

Feldman: Former Item 9B, Exhibit A.

Keho: Right. Okay.

Feldman: That's how it reads.

Keho: So we're changing the intro paragraph that says: A resolution of the Planning Commission of the City of West Hollywood conditionally approving Administrative, partially approving Administrative Permit 2007-065 for the remodel of an existing commercial building, including a garden court, garden enclosure, and denying the replacement of a billboard located at 928 North Fairfax Avenue, West Hollywood, California. And then we're going to modify Section 2.

Feldman: And Section 2. After the words, cable television channel, should say: the public hearing was reopened on September 17th, and was re-noticed for September 17, 2009. The applicant, the owner, and all owners of real property and tenants within a radius of 500 feet of the project, as well as speakers at the July 2nd hearing, were noticed by mail on September 3rd. A 4-foot by 3-foot sign was also posted at the site with information about the project and the September 17th hearing date.

Keho: Then Section 3 remains the same. Section 4, the intro paragraph remains the same. Letter A is modified to delete three words in the first sentence, with the post remodel and then we delete, and billboard replacement. So it reads: The proposed remodel is allowed within the CN commercial zoning district within the East Side redevelopment area. And then the rest....

Feldman: And then that should be removed.

Keho: That paragraph remains the same. With the exception of the last sentence that says the project will be conditioned to comply with the standards. Then we move on to Letter B. We're modifying that one to say: The proposed remodel of the building is consistent with the General Plan because the General Plan encourages the renovation and remodeling of older buildings. And then in paragraph C, we strike the words "and replacement of the billboard" in the first sentence. And then in the last sentence, we strike "because other billboards of comparable size exist within the East Side redevelopment area". So strike that. Then following that, there's the section on the billboard permits. We keep all of those. And at the end of that, we add a paragraph that says, let's see here. The proposed billboard replacement is allowed within the CN zoning district within the East Side redevelopment area only if all relevant criteria set forth in the Zoning Code are satisfied. The proposal for the...let's see here...let's see. Where did that....

Feldman: It starts....

Keho: Which one?

Feldman: The criteria for the billboard....

Keho: Okay. So, so then it starts here. The criteria for the billboard replacement have not been satisfied under Section 19.34.080.J.1 because evidence presented does not indicate that rehabilitation activities on the site necessitated removal of the billboard. The billboard was removed in late 2007 after the project application was submitted, that the city had approved the redevelopment...but before the City had approved the redevelopment project. The applicant contends that the billboard removal was required because even though it was freestanding, it was needed in order to safely dig the footings for the property line wall. No evidence has been presented to support this claim. The original project application did not show a required billboard replacement, and there is no work proposed as part of the rehabilitation that would have directly required physical removal of the freestanding billboard. Billboard replacement is only permitted in the City under a few limited circumstances, and the billboard was removed before the City could affirmatively establish that, based on the nature of the rehabilitation activities, it was eligible for replacement. So that ends the findings. And then we would need to change the Conditions Section to a new...let's see, where did that one go?

Feldman: 2.2

Keho: 2.2. The approval is for the plans dated September 17th. And then we change the other date of the Planning Commission meeting to September 17th and does not include the billboard. And then I believe....

Feldman: And one other change. So Section 5 will then say: Pursuant to the above findings, the Planning Commission in the City of West Hollywood hereby approves Administrative Permit 2007-065 and denies billboard replacement, subject to the following conditions. And any reference to a billboard should be removed.

DeLuccio: And all the conditions you've....

Keho: Right. And then the rest of the conditions that were in the original resolution approving the project remain.

DeLuccio: Okay.

Buckner: Just clarify one more thing.

DeLuccio: Sure, Sue.

Feldman: Sure.

Buckner: Can you read the part of the findings where it states that the City...did you say the City found that it did not necessitate the removal, or did you say the City was not able to substantiate whether or not in fact it was necessary?

Keho: Well, the way that....

Buckner: What was the finding of the City?

Keho: So, so the finding is, the way we stated it was, no evidence has been presented to support the claim. That's...are you referring to the portion that talks about the footings and....

Buckner: Uh-huh (AFFIRMATIVE).

Keho: Right. So that's the part, that's what we said in regards to the footings and, and how there was a conflict. So that's how it's stated, as no evidence has been presented to support the claim.

DeLuccio: Okay. Very good. John, are you okay with that?

Altschul: Yes. I....

DeLuccio: Okay. And I second that, and I'm fine with that. And I want to just say we, we did...I want to close the public testimony portion of the public hearing. I don't know if I did that. And I think at this point, is there any further discussion...we'll go to a roll call, David.

Gillig: Commissioner Altschul?

Altschul: Yes.

Gillig: Chair DeLuccio?

DeLuccio: Yes.

Gillig: Commissioner Hamaker?

Hamaker: Aye.

Gillig: Commissioner Guardarrama?

Guardarrama: Yes.

Gillig: Commissioner Buckner?

Buckner: Yes.

Gillig: Commissioner Bernstein?

Bernstein: Aye.

Gillig: Vice Chair Yeber?

Yeber: Yes.

Gillig: Motion carries. Unanimous.

DeLuccio: And David, what's the next step on this? Is there....

Gillig: This is appeal.

Feldman: It's appealable to the City Council, but it's the final....

DeLuccio: It goes to the...can you...David will read that, please.

Gillig: Yes. The resolution the Planning Commission just approved memorializes the Commission's final action on this matter. This action is subject to appeal to the City Council. Appeals must be submitted within ten calendar days from this date to the City Clerk's office. Appeals must be in writing and accompanied by the required fees. The City Clerk's office can provide Appeal forms and information about waiver of fees.

DeLuccio: Thank you, David. And we'll take a five minute break.

llwci:pg
(ITEM 9.B. OFFICIAL RECORDING ENDS).

THE COMMISSION TOOK A TEN (10) MINUTE RECESS AT 7:40 P.M. AND RECONVENED AT 7:50 P.M.

- C. 8600 Sunset Boulevard. (Sunset Plaza)
Certificate of Appropriateness 2006-016, Demolition Permit 2006-028,
Development Permit 2006-041, Final Environmental Impact Report:**
Nathan Gapper, Associate Contract Planner, provided a visual presentation and background information as presented in the staff report dated Thursday, September 17, 2009.

He provided background information and stated the applicant is requesting to demolish an existing 3,371 square-foot commercial building and to construct a 15,416 square-foot commercial building. The proposed project would be an expansion of the existing, potentially historic Sunset Plaza district and would consist of three stories and ten tenant spaces.

He spoke and detailed the history of the site and existing building. He stated the Historic Preservation Commission recommends denial of the request for a Certificate of Appropriateness stating the existing contributor to a potentially historic district can still provide a reasonable use.

Commissioner Guardarrama questioned the role of the Historic Preservation Commission regarding the Certificate of Appropriateness.

Commissioner Altschul questioned the remaining square-footage of Sunset Plaza.

Vice-Chair Yeber requested clarification of the Design Review Subcommittee's analysis of the project design and the usability of the space.

John Chase, Urban Designer, stated there was "a lack of enthusiasm" expressed for the project's design.

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

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

Commissioner Buckner recused herself from the dais at this time, due to living within the 500' radius of the subject property.

Chair DeLuccio opened public testimony for Item 9.C.:

MARK MONTGOMERY, LOS ANGELES, applicant, presented the applicant's report. He provided background history of the site and spoke regarding zoning code and Sunset Specific Plan issues. He stated the building has no historical value and detailed tenant leasing space requirements, rehabilitation issues, reasonable rate of return and proposed sales tax revenue.

Commissioner Altschul questioned if this building was to be demolished, how much square-footage of the Sunset Plaza would be left to be deemed historical.

MARK MONTGOMERY, LOS ANGELES, stated approximately 90,000 square feet, but reiterated this is not an accurate figure.

WADE KILLIFER, SANTA MONICA, architect, continued the applicant's report. He spoke regarding the current architectural style of Sunset Plaza. He spoke on foundation and structural issues regarding the current building and detailed the color palette and façade materials of the proposed building.

Commissioner Hamaker questioned the layout and uses of the current building.

CHRISTOPHER LAPP, WEST HOLLYWOOD, has concerns regarding this item. He spoke regarding current architectural style, traffic and pedestrian usage.

SHARON SANDOW, LOS ANGELES, representing the West Hollywood Chamber of Commerce, opposes staff's recommendation of denial.

STEVE MARTIN, WEST HOLLYWOOD, opposes staff's recommendation of denial.

JEANNE DOBRIN, WEST HOLLYWOOD, opposes staff's recommendation of denial. She stated her concerns regarding additional square-footage and parking.

MARK MONTGOMERY, LOS ANGELES, applicant, presented the applicant's rebuttal. He spoke on the architectural style, sidewalk encroachment, square-footage, rental rates and stated there are over 600 current parking spaces available.

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

Commissioner Altschul moved to: 1) bring back a resolution approving the Certificate of Appropriateness, Demolition Permit 2006-028, Development Permit 2006-041 and certifying the Final Environmental Impact Report.

Seconded by Chair DeLuccio.

Commissioner Guardarrama stated his support of the project.

Commissioner Hamaker stated her support of the current structure on the property. She could not support the motion.

Commissioner Bernstein commented on the perceived historical aspects. He stated his support of the motion.

Vice-Chair Yeber stated his concerns regarding potential designations and fully designated properties. He described and detailed the Secretary of Interior Standards.

ACTION: 1) Bring back a resolution approving Certificate of Appropriateness 2006-016, Demolition Permit 2006-0285, Development Permit 2006-041 and certifying the Final Environmental Impact Report, for the property located at 8600 Sunset Boulevard, West Hollywood, California. **Moved by Commissioner Altschul, seconded by Chair DeLuccio and passes on a Roll Call Vote:**

AYES: Altschul, Bernstein, Guardarrama, Chair DeLuccio.

NOES: Hamaker, Vice-Chair Yeber.

ABSENT: None.

RECUSED: Buckner.

THE COMMISSION TOOK A TEN (10) MINUTE RECESS AT 8:35 P.M. AND RECONVENED AT 8:45 P.M.

Commissioner Buckner returned to the dais at this time.

10. NEW BUSINESS.

A. General Plan Update.

Dena Belzer, Strategic Economics, presented the visual presentation of the Economic Development Background Report of the General Plan.

She spoke and detailed how the background analysis of the land use alternatives that will be selected for the General Plan will effect the city's economic development and economic viability.

She provided an in-depth overview of: 1) Report Background and Methodology; 2) Fiscal Analysis; 3) Retail Overview; and 4) Issue Area Analysis.

Discussion, questions and clarification was given, which included general fund expenditures, general fund revenues, total revenue, retail sales, nightlife industries, arts, home furnishing and design industry, neighborhood-serving businesses, LGBT-identified businesses, Russian-oriented businesses and social services.

B. General Plan Advisory Committee Update.

Commissioner Altschul presented an update of the first General Plan Advisory Committee meeting, which was held on Wednesday, September 2, 2009. The next meeting will be on Wednesday, October 7, 2009 at Plummer Park Community Center.

ACTION: Receive and file distributed report. **Motion carried by consensus of the Commission.**

C. Planning Commission Retreat.

Discussion was held regarding a future Planning Commission retreat. Consensus was the retreat to take place on a Saturday.

ACTION: Return at next meeting with a list of available dates with possible discussion and agenda items. **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.

John Keho, Planning Manager, provided an update of upcoming projects tentatively scheduled for Planning Commission.

B. Director's Report.

Anne McIntosh, Deputy City Manager/Community Development Director, presented an update regarding the 2009 California State APA Conference, which was held in Lake Tahoe.

14. PUBLIC COMMENT.

STEVE MARTIN, WEST HOLLYWOOD, had concerns and commented on the General Plan and livability issues.


JEANNE DOBRIN, WEST HOLLYWOOD, commented on outstanding building permits and had concerns regarding safety issues and the General Plan.

15. ITEMS FROM COMMISSIONERS.

Commissioner Hamaker stated her concerns regarding vacant properties in the city.

16. ADJOURNMENT: The Planning Commission adjourned at 9:30 P.M. to a regularly scheduled meeting of the Planning Commission, which will be on Thursday, October 1, 2009 at 6:30 P.M. at West Hollywood Park Auditorium, 647 N. San Vicente Boulevard, West Hollywood, California. **Motion carried by consensus of the Commission.**

APPROVED BY A MOTION OF THE PLANNING COMMISSION ON THIS 1ST DAY OF OCTOBER, 2009.


CHAIRPERSON

ATTEST:


COMMUNITY DEVELOPMENT DIRECTOR