



**PLANNING COMMISSION MINUTES**  
**Regular Meeting**  
**June 4, 2009**

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

**1. CALL TO ORDER:**

Chair Altschul called the meeting of the Planning Commission to order at 6:35 P.M.

**2. PLEDGE OF ALLEGIANCE:** Steven Afriat led the Pledge of Allegiance.

**3. ROLL CALL:**

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

Commissioners Absent: Yeber.

Staff Present: Nathan Gapper, Associate Contract Planner, Francisco Contreras, John Chase, Urban Designer, Senior Planner, Maria Rychlicki, Interim Community Development Director, John Keho, Planning Manager, Michael Jenkins, City Attorney, and David Gillig, Commission Secretary.

**4. APPROVAL OF AGENDA:**

**ACTION:** Approve the Planning Commission Agenda of Thursday, June 4, 2009 as presented. **Moved by Vice-Chair DeLuccio, seconded by Commissioner Hamaker and unanimously carried, notating the abstention of Commissioner Yeber.**

**5. APPROVAL OF MINUTES.**

**A. May 7, 2009**

**ACTION:** Approve the Planning Commission Minutes of Thursday, May 7, 2009 as presented. **Moved by Commissioner Hamaker, seconded by Vice-Chair DeLuccio and unanimously carried, notating the abstention of Commissioner Yeber.**

**B. May 21, 2009**

**ACTION:** Continue to June 18, 2009. **Motion carried by consensus of the Commission, notating the abstention of Commissioner Yeber.**

**6. PUBLIC COMMENT.**

JEANNE DOBRIN, WEST HOLLYWOOD, commented on public attendance.

7. **ITEMS FROM COMMISSIONERS.** None.

8. **CONSENT CALENDAR.** None.

9. **PUBLIC HEARINGS.**

A. **9000 Sunset Boulevard.**

**Conditional Use [Tall Wall] Permit 2008-001:**

Continued from Thursday, January 15, 2009, Thursday, April 2, 2009, Thursday, April 16, 2009 and Thursday, April 23, 2009. Applicant is requesting to erect a tall wall billboard on the east face of the existing high-rise.

**ACTION:** Continue to June 18, 2009. **Moved by Commissioner Hamaker, seconded by Vice-Chair DeLuccio and unanimously carried, notating the abstention of Commissioner Yeber.**

B. **1020 N. San Vicente Boulevard (London West Hollywood).**

**Conditional Use Amendment Permit 2009-006:**

Nathan Gapper, Associate Contract Planner, provided a visual presentation and background information as presented in the staff report dated Thursday, June 4, 2009.

He provided background and historical information and stated the applicant is requesting to extend hours of operation by one hour in the morning and three hours at night on the ground level terrace facing San Vicente Boulevard for new hours of operation between 6:00 a.m. and 11:00 p.m.; to extend hours of operation by two hours at night Monday through Thursday and by one hour at night Friday through Sunday at the ground level restaurant for new hours of operation between 6:00 a.m. to 2:00 a.m. daily until a full-time bar is opened to the public, at which time the hours will be reduced to 6:00 a.m. to 1:00 a.m. daily; to extend hours that amplified sound or music is permitted by two hours at night on the third floor terrace for new hours of permitted amplified sound between 8:00 a.m. and 10:00 p.m. with restrictions on the types of sound allowed; to extend hours of operation by two hours at night Sunday through Wednesday and three hours at night Thursday through Saturday on the roof level terrace for new hours of operation extended to 12:00 a.m. Sunday through Wednesday and 1:00 a.m. Thursday through Saturday; and to extend hours when amplified noise is permitted on the roof level terrace by three hours at night to allow for amplified noise between the hours of 8:00 a.m. and 11:00 p.m. The applicant is also requesting semi-annual neighborhood meetings.

He noted the amendment to the resolution for additional hours of operation along San Vicente Boulevard.

Staff is adding a condition: 1) no live drums shall be permitted past 8:00 p.m.

Staff supports the applicant's request for the modification of conditions of approval regarding use of the outdoor terraces, hours of operation, and neighborhood meeting requirements. With an added condition limiting the use of live drums,

Vice-Chair DeLuccio questioned the alcohol service hours, and questioned the current roof-top hours of the Andaz Hotel (former Hyatt on Sunset).

Commissioner Buckner disclosed for the record she made a site visit and met with the applicant's representatives.

Commissioner Hamaker disclosed for the record she made a site visit.

Commissioner Guardarrama disclosed for the record he made a site visit and met with the applicant's representatives. Items of discussion were limited to what is in the current staff report.

Commissioner Bernstein disclosed for the record he made a site visit and met with the applicant's representatives. Items of discussion were limited to what is in the current staff report.

Vice-Chair DeLuccio spoke with the applicant's representative.

Chair Altschul disclosed for the record he made a site visit and met with the applicant's representatives. Items of discussion were limited to what is in the current staff report.

Chair Altschul opened public testimony for Item 9.B:

STEVEN AFRIAT, LOS ANGELES, applicant's representative, provided the applicant's report. He provided a history of the property. He clarified the applicant is not asking for any change to the parking. He spoke regarding alcohol sales, code enforcement issues, parking, economic conditions, business viability, hours of operation, security guards, 24-hour preferential parking, bi-monthly neighborhood meetings, he detailed the 3<sup>rd</sup> floor terrace use, and clarified the request for amplified sound.

VINCENT MERKURI, General Manager, London West Hollywood, continued the applicants report. He spoke and detailed about keeping business in West Hollywood, extension of hours, and neighborhood outreach.

Commissioner Bernstein questioned how often comparable hotels are required to hold neighborhood meetings.

Chair Altschul requested clarification regarding "guests" and the hotel pool.

Commissioner Hamaker requested clarification regarding amplified sound, dancing and crowd capacity.

TIM BURKINSHAW, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

SHARON SANDOW, LOS ANGELES, representing the West Hollywood Chamber of Commerce, spoke in support of staff's recommendation of approval.

JOSEPH CLAPSADDLE, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

JOHN SQUANTRITTO, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

JOHN MULLIGAN, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

HARRIET SEGAL, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding terraces and noise.

JEANNE DOBRIN, WEST HOLLYWOOD, has concerns regarding this item. She supports the change of reviews to six months. She spoke regarding hotel operations, economic climate, drums, sound, and extended hours along San Vicente Boulevard.

JOAN HENEHAN, TOLUCA LAKE, Chair, West Hollywood Chamber of Commerce, spoke in support of staff's recommendation of approval.

NICK SHAFFER, WESY HOLLYWOOD, has concerns regarding this item. He spoke regarding amplified sound, parking, extended hours and security.

BRAD BURLINGAME, LOS ANGELES, CEO, West Hollywood Marketing and Visitor's Bureau, spoke in support of staff's recommendation of approval.

TODD STEDMAM, LOS ANGELES, spoke in support of staff's recommendation of approval.

STEVEN AFRIAT, LOS ANGELES, applicant's representative, provided the applicants rebuttal. He spoke regarding sound attenuation on the terraces, hotel competitiveness, amplified sound, live drums, neighborhood impacts, and parking.

Commissioner Hamaker requested clarification of hours regarding amplified sound.

**Vice-Chair DeLuccio moved to: 1) approve staff's recommendation of approval with the following added condition: a) one annual review by the Director of Community Development.**

**Seconded by Commissioner Bernstein.**

John Keho, Planning Manager clarified that no dancing is permitted at the bar on the ground level.

Commissioner Hamaker questioned the protocol of management if noise becomes an issue. She commented on the ground materials used for sound absorption and commented on the design of the restaurant and bar.

Commissioner Guardarrama commended the operators of the London West Hollywood.

Commissioner Bernstein had concern regarding the neighborhood meetings. He would like to see the Director of Community Development have some discretion as he/she reviews it to reconsider the neighborhood meetings.

Vice-Chair DeLuccio stated his support of this. He clarified that over the next year there will be a semi-annual meeting, but once the Director of Community Development does the annual review, it may determine that a semi-annual meeting or annual neighborhood meeting would be required.

Commissioner Buckner stated her support for the extended hours. She commented on the third floor terrace and sound. She commended the operators of the London West Hollywood.

**ACTION:** 1) Approve the application; 2) Adopt Resolution No. PC 09-872 as amended: a) semi-annual neighborhood meetings shall take place; b) once the annual review has been completed, the Director of Community Development may determine if future semi-annual meetings or an annual meeting would be required; "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, CONDITIONAL USE PERMIT AMENDMENT 2009-006, AMENDING CONDITIONAL USE PERMIT 2006-012, TO MODIFY CONDITIONS OF APPROVAL REGARDING USE OF THE QUOTDOOR TERRACES, HOURS OF OPERATION, NEIGHBORHOOD MEETING REQUIREMENTS AND PERMIT PARKING REQUIREMENTS AT AN EXISTING HOTEL KNOWN AS THE LONDON WEST HOLLYWOOD (FORMERLY BEL AGE), LOCATED AT 1020 N. SAN VICENTE BOULEVARD, WEST HOLLYWOOD, CALIFORNIA;" and 3) Close Public Hearing Item 9.B. **Moved by Vice-Chair DeLuccio, seconded by Commissioner Bernstein and passes on a Roll Call Vote:**

**AYES:** Bernstein, Buckner, Guardarrama, Hamaker, Vice-Chair DeLuccio, Chair Altschul.

**NOES:** None.

**ABSENT:** Yeber.

**RECUSED:** None.

**THE COMMISSION TOOK A TEN (10) MINUTE RECESS AT 7:45 P.M. AND RECONVENED AT 7:55 P.M.**

**C. 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.

**[*VERBATIM TRANSCRIPTION*]**

*Provided and certified by Written Communications, Inc.*

**Altschul:** *The next item is 9.C., Demolition Permit 2005-015, Development Permit 2005-023, Tentative Tract Map 2005-007, Request to demolish four units and construct a five-unit condominium project at 1019 North San Vicente. The Applicant is Eddie Reay for Amit Apel Design and Francisco Contreras will give us the staff report.*

**Contreras:** *Thank you Chair and good evening Commissioners. Before I begin with presenting the staff presentation, I do want to mention that additional correspondence was received. It's included in the memo that was distributed to you earlier. There were seven letters in opposition to the proposal and this evening I received three more, basically the same letter from different residents at 1023 San Vicente, 1025 San Vicente and 1027 San Vicente. So the concerns addressed in these letters are actually addressed in the staff report. Also I wanted to clarify that as presented in the plans, the proposed development does actually provide a private entry into the façade adjacent to*

*the public right of way, which meets our requirement, so there's really only two outstanding code deficiencies, which are the common open space and the setback above the first story requirements. So with that said, I'd like to actually present the project to you. The proposed project is a request to demolish an existing potentially historic duplex along with two other residential structures that have been used actually for...as illegal units on the property, so a total of potentially four units, for the construction of a four-story five-unit condominium project. It provides ground level parking with 11 parking spaces and each condominium unit would have at least two bedrooms. In fact, all of them are two bedrooms including rooftop with patios. The application was submitted back in June of 2005 and completed in September of 2005. Now although the application was deemed complete in September, outstanding code issues did remain unresolved as identified in the letter sent to the Applicant in June and September of 2005. So among those issues identified in the letters were the two outstanding code issues that remain and identified in the staff report. That includes the requirement of 500 square feet of common open space. As defined per code, that common open space has to be unroofed. What the project is proposing is common open space that's not unroofed but covered, as you can see in this section of the model. So that does not meet our code definition for common unroofed open space. Furthermore, they do provide common open space on the rooftop of the structure, but only 200 square feet of that common open space can actually be counted towards the requirement, so they're actually still deficient with regards to this requirement. And I can show you one more slide. You can see that the common open space is actually roofed here on the ground floor. Also there is insufficient front yard setback above the first floor. Currently, the second, third and fourth stories are not setback an additional six feet as required per code. Currently, the whole building is actually only set back as along the prevailing setback. So although the Planning Commission has the discretion to waive this requirement for an additional six feet for everything above the first floor, the...neither staff nor the City's Urban Designer can actually support a determination for exemplary design and this really has to do with basically the overall form vocabulary of the project with the arrangement positioning placement of windows and also the renderings and the project plans actually don't coincide, so it's actually a little bit difficult to ascertain as to what exactly is being proposed. Furthermore, you know, it doesn't...this project does not really commensurate with the standard level of representation for similar projects reviewed that have actually achieved exemplary design such as the projects at 1257 Detroit, 1345 Havenhurst and even at 656 Huntley, just to name a few. So in October of 2005, the City did begin its historical resource survey update. The Applicant was informed that the building proposed for demolition would have to be reviewed in accordance with CEQA to determine whether the property could be potentially historic. A historic evaluation was performed in November of 2005 and I did identify this project as being potentially historic as it was one of the few remaining examples of a colonial revival craftsman duplex in the City. The draft EIR was released in November of 2007, but all the way up to February 14<sup>th</sup> of 2008, the project had still not been revised to meet those outstanding code issues that have been identified. With that said, I'd like to present John Chase, our Urban Designer to provide you basically with an overview of the architecture and urban design analysis.*

**Chase:** *Thank you Francisco. The proposed project is a modernist three-story five-unit townhouse development. The townhouses are arranged in a row that forms a single block like building running lengthwise on the lot east to west. Materials are rough concrete, smooth stucco and something called Metal Three Form material. The window and door types and their materials are not specified. The townhouses step up the slope to the west. The east and west facades of each townhouses are differentiated from each by changes in unit level, parapet height and siding material. Windows are assorted in size and shape ranging from large L-shaped expanses of glass on the west façade to small narrow windows on the north façade. The building is not set back from the front setback line of six feet above the first story. The project has a mixed architectural vocabulary that is not fully resolved. The project was reviewed by the Design Review*

*Subcommittee on September 8, 2005 and I just wanted to note that the design review, the way design review works in West Hollywood is not by having a double approval. The Design Review Subcommittee never approves anything. They give an opinion to the Applicant. Those three members of the Design Review Subcommittee members that are present that day, but the legal status of the project is not changed and there is actually no guarantee that the, you know, when the project is presented within the context of the whole Commission or a full staff report that they may not further develop their opinions and the reason for this is to avoid the double jeopardy where a project might get two different verdicts from two different bodies even from a subcommittee. So the Subcommittee had concerns with the front facades of the proposed structure, the unharmonious angles of the front windows, the lack of human scale on the elevations and the lack of windows in the ground floor of the front unit, which they had questions about the habitability of the room. Thank you.*

**Contreras:** *So as proposed, the project really cannot be approved. The Applicant either needs to redesign to address the open space and setback deficiencies or actually apply for two variances. And receive approval for those two variances in order to permit adjustments to the outstanding development standards. So staff advises that at this time we really cannot support the required findings for a variance since there are no special circumstances that apply to this property and therefore staff recommends denial of the project as currently proposed with the findings in the attached Draft Resolution. With that, I'd like to conclude and just say thank you Commissioners and I invite you to ask any questions of staff at this time.*

**Hamaker:** *John I have a question.*

**Altschul:** *Go ahead, Barbara.*

**Hamaker:** *Francisco, on page four of 10, you say it's the...the project is approximately 17,000 square feet, so although I'm arithmetically challenged, I believe that works out to around 3,000 square feet a unit, is that correct?*

**Contreras:** *The unit sizes are fairly large. And I'm looking at the project plans just to determine whether we have an average unit size. The average square foot per unit is about 2,500 square feet.*

**Hamaker:** *Okay, great. Thanks.*

**Altschul:** *Any other questions of staff at this time? Sue?*

**Buckner:** *Francisco, after the architect and the contractor, the project people met with the Design Committee and they were given recommendations of what they might do to improve the project or was there any effort at all? I mean, were there any changes made after that meeting?*

**Contreras:** *I can say that with the submittal that you see before you, there were some minor tweaks. For example, they do have an entry now towards the...to the public right of way, which might not have been there originally. But, you know, I believe it's the same exact model that you see there that was presented at the Design Review Subcommittee so no major changes were made, maybe slight little modifications here and there.*

**Buckner:** *Thank you.*

**Bernstein:** *I was just curious, regardless of what action we take tonight, the building as it stands and I don't know the legal definition, but it appears to be an eyesore and is there anything being done to remedy that either in the short-term of the long-term?*



**Keho:** The property is on...the City has an ongoing staff meeting that looks at vacant and abandoned properties and this property is on that list and so we do keep an eye on it to try to see what we can do to maintain the...keep the property from becoming even more derelict than it is, so we do keep our eye on it.

**Contreras:** Yeah, and they have recently applied for some modifications to the interior of the units. I don't know whether or not that indicates that they're considering remodeling the units or doing something in the interim, but they have applied for planning permits and actually were approved to do some minor modifications and they're currently in the plan check process I believe.

**Bernstein:** Thank you.

**Altschul:** Anything else? All right, we'll open the public hearing and we have the Applicant Amit Apel and Elia Thompson. Together you will have combined 10 minutes between you. Please proceed. And state your name and your city of residence.

**Thompson:** Hi, good evening everyone. Let me make sure this is...I'm Elia Thompson, 1900 Avenue of the Stars, Century City or Los Angeles 90067. I'm an attorney with the Law Firm of Jeffrey, Mangles, Butler & Marmarou. I represent the owner and developer of this project, ADY Project LLC. I'm joined by the project's designer Amit Apel. I know you've all read the staff report and heard the Planning Department's presentation and I want you to know I appreciate the work that the City Planning Department does throughout the City. I enjoy working with John Chase and Francisco and I've done several projects with them. However, I have been greatly disappointed with several miscommunications and misrepresentations made by the Planning Department. I'd like to make the Commission aware of these issues that specifically pertain to this project. First of all, there's an overall theme to the staff report that suggests that our team has been sloppy, uninformed of the code, inattentive and perhaps even uncooperative with working with Planning staff designing this project and I assure you that that's not the case. Throughout 2005, our team met with City Planning on numerous occasions to go over the design of this project. We did several revisions and came up with the final revision that after soliciting significant impact...input from Mr. Chase and several other members of the Planning Department. And we specifically worked with John to design the rooftop open space so that it would serve all residents. We created the interior common space to give residents a beautiful lounge area to come and entertain their guests and by doing so, an entire residential floor was removed from this design to accommodate an interior common space area. All told, this project has more than 1,600 square feet of open and common space for the residents. While Amit worked through the design elements, it was always represented to him as well as the owner that this project would be considered to be an exemplary design by Planning staff and therefore minor variations from the strict interpretation of the City's code could be supported by the City staff for open space as well as reduction of the setback for the second story. After this project was designed, Amit and the owner presented the project to Design Review Subcommittee and I want to address a couple things that were mentioned here by the Commission. There were some suggestions and critiques from the Design Review Board on how the project could be improved. But overall the project was given a very favorable opinion. Among some of the changes that the Design Review recommended were changing the front door, changing various shapes and sizes of windows and a few other items that I can have our Designer Amit get into. It was shortly after this hearing that Planning staff informed us that there could be an issue with it being historical. They then insisted that my client go through an entire EIR to determine whether or not this project was historical. We did so. We spent two years, more than \$50,000 for the initial study and the EIR and for some reason, to get all the elements together, it took more than two years to get this completed. Unfortunately, after several reports by historic consultants, after the full EIR and even after the recent historical survey that's been done by the City, we still don't have an answer. We still do

*not know what the historical status is other than it could potentially be considered historic. All of the consultants agreed that this is not something that would ever be considered for the California or the National Historic Registries, but for some reason this could potentially be a historic resource for the City. We don't agree. After all the public hearings and comments in the draft EIR were completed, Planning Department asked to have a meeting with us to discuss moving the project forward. At that time, they informed us that the project looked a bit dated and that they know...and that they wanted a different design. We went back, we looked at trying to do a different design, but by this time our client spent more than \$200,000 on soils reports, structural reports, plans for architectural engineering, civil engineering and so forth. They can't afford to spend another 100 grand on a project especially given since we have this holding pattern as to whether or not this project is even historical or not. So we've looked at trying to see whether or not we can make modifications now that we've been told that this will not qualify for exemplary design. The way the building is designed, you can't just simply shove it back six feet. You can't simply lop off a certain area and create more open space. We would have to completely redesign this and go through an enormous expense. Couple more points. There are only two legal units on this property site. I want to make sure that we're very clear about that. This would increase the overall number of legal units to five. The back buildings are accessory buildings. I suppose they were rented out at one time, not by my clients since they've owned this property, but there are only two legal units. Also, the trees were dug up at some point after my client bought the property. We assume a landscaper came by and took them. They're no longer on the site and we just want to be clear on that. So we're...what we'd like to do is we'd simply like to point out that the City informed the owner in 2005 that the entitlement application was complete. We were allowed to move the tenants out of the property at great expense. Property's been uninhabited for four years. Not only has the owner suffered a loss of income, the tenants suffered a loss of their housing for no reason. The property is no longer habitable unless a costly renovation is done to this site. I want to point out the reference that was made by Planning Department about the building permits that were recently taken out. I want you to understand, we have tried to make this site work. We went, we pulled building permits to try and do some renovations. It's rotted inside. In order to try and renovate this property in the condition it's in and, you know, I welcome any of you to come to the site and come take a look inside. We'll open it up and you'll sign a waiver from my law firm assuming the risk and you'll walk in and you'll take a look at it. It is horrible. I regret if there are people that like the historic elements of it, but the actual property is deteriorating, is not habitable and despite pulling these building permits, our guys have realized that it would cost hundreds and hundreds of thousands of dollars to try and do anything with it, so we can't and we're not going to move forward. So we'd like to present this project to you. We're here to answer any questions. Amit, the designer, is here. He's been through this all along and we simply ask that you review the merits of this design and determine if you think it's worthy of a waiver for exemplary design. Or if you believe you would support a variance for reduction of open space and upper floor setbacks. We would move forward to file for that, however, we've been told by Planning Department that at this time staff wouldn't really support that, so that's why we haven't pursued it. The last point I want to make, I know I've made it once before, but I just want to be very clear. That, you know, given the economic downturn, given the four years that we've been through this process, the enormous expense, we can't afford to simply redesign it at this point and if we can't move forward with this design, then it will be left in the condition that it's in for quite some time. Not as any threat to any of you by any means, we just don't have the money to move forward at this time. So again, we're here for any other questions. Thank you so much for allowing us to be here and again I appreciate everyone's work including the Planning staff. Thank you.*

**Altschul:** Ms. Thompson?

**Thompson:** Yes, sir.

**Altschul:** What you're ask...what I think I heard you asked us to do is give some sort of an advisory opinion as to whether or not variances, if applied for, would be granted and I don't know that that's our function.

**Thompson:** It's not your function. That's not what I was saying. What I was saying is I would like in presenting this project to find out whether or not you view this as an exemplary design, can determine that it's exemplary design.

**Altschul:** Well, I think if you translate that into what I said, it equals the same thing. If we would translate this into viewing it as an exemplary design.

**Thompson:** Then you would approve the project as is, yes.

**Altschul:** And you're asking for an advisory opinion as to whether or not a variance for exemplary design would be granted without you having filed for a variance.

**Thompson:** Well, I'm asking that you approve the project as is however means we get there and it was my understanding, and I could very well be wrong, it was my understanding that you could determine to approve this project. In doing so, you would consider it to be an exemplary design and that's the way which it would be approved. If I have that wrong, obviously we have much more important people than myself.

**Altschul:** Well, given the design, exemplary...thank you Barbara for teaching me to back up the microphone. Given the fact that exemplary design is one issue, but the covered open space is another issue, which staff says requires an application for a variance and you haven't filed for either. So aren't our hands tied?

**Thompson:** Well, my understanding is that the modification or the minor variation from open space, keep in mind we do provide 1,000 square feet of open space on the roof, 200 of which is allowed to be used for that code....

**Altschul:** Now will you direct the...your response to the question please?

**Thompson:** I'm sorry, then I'm...I would ask that you repeat the question.

**Altschul:** Thanks, I withdraw the question.

**Thompson:** Well, I will say that common open space, the amount of common open space that's required by the Code as well as the setbacks for the second story and above can be allowed under minor variations through the exemplary design status.

**Altschul:** Thank you.

**Guardarrama:** I have a question for staff.

**Altschul:** Go ahead Joe.

**Guardarrama:** My understanding was just the front setback requirement could be waived for exemplary design and had nothing to do...or exemplary design doesn't affect anything with common open space.

**Contreras:** That's correct.

**Guardarrama:** Okay.

**Altschul:** Donald?

**DeLuccio:** What about...we don't even have the final EIR in front of us this evening to certify it, is that correct?

**Thompson:** That's my understanding, yes.

**DeLuccio:** So how in the hell would you get over that huddle...hurdle? 'Cause we would be required actually to do a Statement of Overriding Consideration, so I don't...so how would you describe the benefits of this project to the City that we would, you know, enable us to make a recommendation to the Council to do a Statement of Overriding Consideration?

**Thompson:** I believe John Keho is probably in a better position to answer that because I don't know the process as far as the fact that the EIR's not been completed and so forth.

**Altschul:** Do you know why the EIR has not been completed?

**Thompson:** Well, it's not in our purview. It's not under our discretion. It's a City document. It's the City's decision to not complete it.

**Altschul:** And let me ask the City Attorney a question. Does the fact that this EIR is not completed and that there is this specter of potentially or possibly becoming a historical something tie anybody's hands at this point?

**Jenkins:** Well, it precludes you from approving the project tonight. So it ties your hands in that regard. It would not preclude you from for example continuing the item in order to allow the EIR to be completed and then brought before you. But it's not in a position to be approved tonight.

**Altschul:** Is there....

**Keho:** I'd like to...can I add something?

**Altschul:** Sure.

**Keho:** And correct me if I'm wrong, but my recollection is that this project laid dormant for a long period of time and so we...because of the economy, we had thought that this project among others might have become inactive and so we have on occasion started to send letters saying we need to get...remove this project from our current application files and remove it and so that's how we started this process back 'cause we thought this project was dormant and so we had an EIR that hadn't been finished because we were waiting for revised plans to show that it can comply with the setback requirements.

**Altschul:** But what's the reason that the EIR wasn't completed?

**Keho:** Because we were waiting for revised plans to show that the project could comply because the project couldn't comply.

**Altschul:** But you...the EIR is dealing with the issue as to whether or not there's a historic barrier to completing the project.

**Keho:** *That's the primary reason.*

**Altschul:** *The required plans have to do with whether or not the project's approvable and...*

**Keho:** *That's the primary issue.*

**Altschul:** *...it's apples and oranges. So one, the EIR could've proceeded without the other, is that right?*

**Keho:** *Well, the EIR also needs to talk about, is the project in compliance with City regulations. You're correct that the primary focus is on the environmental, but the EIR also has to address other issues such as traffic and does it comply with the requirements and there have been no....*

**Altschul:** *But for the historic component of this or the potential historic component of this, would this not have been under a negative declaration?*

**Keho:** *Perhaps.*

**Thompson:** *May I answer just one quick thing?*

**Altschul:** *No. Can you see any reason, any reason why an EIR would've been necessitated other than this potential historic....*

**Keho:** *That was the reason for the EIR.*

**Altschul:** *Can you think of any other reason?*

**Keho:** *Not right now.*

**Altschul:** *Okay, so the answer to the prior question is, the historic potential, historic designation was the sole reason for the EIR and the EIR need not address the issues of traffic circulation and etc.*

**Keho:** *That's not quite correct. You still have to address and analyze other things. You may not have to go and do the same amount of in depth analysis.*

**Altschul:** *I think I recall a project on Fountain where the main reason for an EIR was because it was so many feet in proximity to another historically designated building and that's all it analyzed. It didn't analyze anything else, so why would this be different than that?*

**Keho:** *Because we still have a section on land use which talks about compliance with City regulations and the building wasn't complying.*

**Contreras:** *So in a sense, if they were to revise the project, we would have to revise the project description within that EIR. Other things might come up that we wouldn't have analyzed with the revised proposal.*

**Altschul:** *Let's put the question this way. The EIR was not complete because of any lack of diligence of the Applicant, is that correct?*

**Keho:** *We went a year, we went about approximately a year without any communications on this and we thought the project was no longer an active project.*

**Altschul:** *I know, but who supervises the EIR, the City or the Applicant?*

**Keho:** *The City does, but there's no response from the Applicant.*

**Altschul:** *Were there questions posed to them by the EIR consultant or by the City having to do with the EIR that they did not respond to?*

**Keho:** *I can't answer that right now. I don't personally know that.*

**Altschul:** *Does anybody?*

**Keho:** *Well, we don't have all the file...we can take a look in our file that we have here for a second.*

**Contreras:** *We have...we continued communications in February of 2000 and...I think it's in the staff report, 2008, basically indicating to the project Applicant the deficiencies in the Code. We went a year without actually hearing back whether or not they were going to redesign. We sent them a letter in March 6<sup>th</sup> indicating that we needed some either revised designs or some action on the project. We didn't hear anything from our March 6<sup>th</sup> deadline. We sent another letter March 9<sup>th</sup> requesting something in writing whether or not they were going to revise or withdraw their application. Nothing came in by March 18<sup>th</sup>, that deadline at that point. We sent a third letter asking for confirmation to, you know, sent to us by March 20<sup>th</sup> as to what they were going to do with the project 'cause we had a pending EIR, we needed to do something. Nothing was received.*

**Altschul:** *But we had a pending EIR, but we haven't done anything to move forward, to go forward with the EIR.*

**Keho:** *But we're trying to get them to respond to our request for changing the plans.*

**Altschul:** *But our requests with respect to the design with respect to the...of the approvability of the entitlement, the EIR is a separate thing only dealing as I understand it with the potential historical possibility of this particular property.*

**Keho:** *Well, we can disagree...*

**Altschul:** *We're supposed to move forward on that and they're supposed to move forward on this. The fact that they didn't go forward on this, does not in fact that excuse the City from not going forward on the EIR?*

**Keho:** *Well, we can disagree. We felt that we had a responsibility that the plan that they submit either has the applications in hand to request the variance or the plan is redesigned so that way the EIR is reviewing a project that can either be approved via a variance or approved because it can comply, not reviewing a plan that can't be approved.*

**Altschul:** *Donald?*

**DeLuccio:** *This is not...that's fine, you know, and it's not the first time that you've come forward with a project. I recall there's at least one other situation where you did not bring the final EIR because the project was in a similar situation. I guess my problem this evening is I don't have everything in front of me. I don't have the final EIR in front of me. I don't...'cause not only would we need to either approve the design, approve the project or not, we would have to certify the EIR and part of that certification would be if someone can make the Statement of Overriding Consideration. That would be required. A recommendation to Council because potentially this is a historic resource, so that's...I'm sort of in a dilemma here.*

**Keho:** *Right and this direction would be to if you feel that there's merit, let's direct staff to finish the EIR and bring it back with the full final EIR.*

**Altschul:** *One of the things that I noticed about the design, at least to my eye, what I see on the massing model and what I see on some of these renderings, they don't equal each other. In other words, they're not the same thing. There are details, there are materials, there are segments of the elevation that have no correlation with each other. So, you know, basically if I look at the renderings, I see a design that's no worse and perhaps somewhat better than all of the other side by side five row houses of 45 feet that have been approved, some of which have been built and not been able to be sold that are existing now. But you know, there are just too many loose ends here. I would recommend that the matter be continued, that the City move forward with the EIR and that the Applicant move forward with the redesign and the request for a variance if the Applicant so agrees to that and if they want that. If they don't want that, we can just deny the project right now. But I think there should be a pretty tight leash like no more than 90 days for a continuance for these things to be accomplished and if it is, I certainly think that they should not come here....*

**DeLuccio:** *Let's do this first. Why don't we go through all that first then we can come back to....*

**Altschul:** *True.*

**DeLuccio:** *'Cause, yeah, 'cause I...there's some miracles you have to say.*

**Thompson:** *Sir, I just wanted to know, can we answer a couple of things that were brought up?*

**Altschul:** *When it comes time for rebuttal.*

**Thompson:** *Okay, thank you.*

**Altschul:** *We'll go on with the public hearing. Brian Winters?*

**Jenkins:** *They actually have three more minutes.*

**Altschul:** *Oh, you have three more minutes. Now you can answer.*

**Thompson:** *I really probably only need 30 seconds. First of all, I do want to make clear the EIR did only deal with the historic significance, period. That was the only issue. It clearly states in the draft EIR report or the draft report that we have that the historical...whether or not it was historical significance was the only issue contemplated and considered by the EIR. Also, again I didn't want to get into any kind of tit for tat. I really, really like your City Planning Department and I wanted to be as professional as possible, but I do want to let you know that we were, remained in constant communication throughout 2008. I did leave to go have a baby the end of October. I was out for a couple of months. When I came back the first of March, there were letters, there were some spots, I can show you emails. We can go back and forth with he said, she said, but I just want to make sure that you understand that we do that this very seriously and I did remain in constant communication throughout the project. And also, Amit had a couple of design issues to state to you.*

**Apel:** *Amit Apel, I just...not regarding the design, regarding the conflict between the model and the rendering. The rendering are much more updated after we worked with John Chase and the staff to upgrade it to the point that they see fit. The problem is that we never knew if it's historical, it's not historical, even if we're going to change the model and spend another \$12,000 to the model if it will be built or not. So it*

*was a suggestion just to continue in a certain way 'til we figure out what to do. We just don't know what direction to go. We willing to work with the Design Review. We always, all the projects we did, we worked with you and we move and shift things around, that's not a problem. The problem that we didn't know what stage we need to get to because we never knew if it's going to be approved or not. So that's the main problem with the conflict between the materials you see in front of you. That's all. Thank you.*

**Hamaker:** *John, can I ask a question of...*

**Altschul:** *Barbara?*

**Hamaker:** *...Mike? So am I hearing correctly that there can be in this case, they've purchased a property and then they realized it has to...an EIR has to be done to find out if it's historic, but the actual project that they want to build once it's...the supposed historic thing is demolished, that project does not have to be complete in order to do the historic EIR?*

**Jenkins:** *No, that's not exactly right. And I'm not exactly sure what you're asking. We receive a project application, which describes a particular project, this.*

**Hamaker:** *Right.*

**Jenkins:** *We then determine to prepare an EIR based on this project description.*

**Hamaker:** *Project, right.*

**Jenkins:** *In this instance, the EIR was focused on the historic issues pertaining to what exists on the site today, not on the impacts associated with this project. At some point during the process, staff determined that aspects of this project were not code compliant.*

**Hamaker:** *Like the setbacks?*

**Jenkins:** *And that...*

**Hamaker:** *Yeah, and the common open space.*

**Jenkins:** *...resulted in a stoppage of the completion of the EIR. There appears to be a difference of opinion as to whether or not the project complies or doesn't comply. I think you've heard from the Applicant that they feel that it complies and they are encouraging the Commission to approve the project as is.*

**Hamaker:** *That's what I...okay, 'cause that's what I was hearing.*

**Jenkins:** *If the EIR were completed, you'd be in a position to either agree with the Applicant or not.*

**Hamaker:** *Okay. So by asking the EIR to be completed on the project as it is with no setbacks and the common open space, etc., the result of the EIR would reflect the existing project that is not code compliant.*

**Jenkins:** *Right, the thing about the EIR is that it evaluates a specific project as described in the application.*

**Hamaker:** *Right.*



**Jenkins:** So were they to change the project, then the project description would have to change in the EIR. That having been said, that's a relatively minor change in the EIR because as I understand it, a change in the project description, for example, hypothetically were they to create the setbacks on the upper floors, that would have no impact on the conclusions drawn in the EIR. It would simply require a change to some sections of the EIR to accurately reflect what the project is going to look like.

**Hamaker:** Okay.

**Altschul:** But since this EIR is specifically focused on the demolition and whether or not the existing structure on the property can be demolished, can be demolished, given the historical suggestion, is that in fact...does that in fact change your conclusion?

**Jenkins:** Change which conclusion?

**Altschul:** The conclusion that the EIR even if this project were redesigned would then have to look at the redesign rather than....

**Jenkins:** No (TALKING OVER).

**Altschul:** The demolition take place?

**Jenkins:** Not, not...no, no, I didn't mean look at it from the point of view of engaging in any sort of further analysis. I'd say just to conform, the description to conform to the revised project. That's not an analytical issue, it's just a descriptive issue so that it's accurate. That's all I meant to say.

**Altschul:** So if they totally redesigned this project completely and it looked nothing like it does now, then there would be no analysis required?

**Jenkins:** Just a change in the description.

**Altschul:** Yeah. Any other questions or comments? Okay. Brian Winters?

**Winters:** Thank you Commissioners for a moment to speak with you. My name is Brian Winters and I've been a resident at 1013 San Vicente since 1987 and having lived in the area all this time over 20 years, come to appreciate the historical significance of the architecture that exists locally. As a result, I and my neighbors are very concerned about the developer's request to demolish 1019 to 1021 San Vicente, one of what may be three remaining colonial style craftsmen duplexes built around 1926, in which you've been discussing, the draft Environmental Impact Report. The structure is said to be potentially historic. The document also states that the construction or the demolition of the property would result in significant unavoidable adverse impact to cultural resources. Well, destroying the building to me and to many of my neighbors who've voiced the same opinion through Mr. Contreras, while destroying the building makes no sense to me in and of itself, there's more to the argument against allowing construction. Not only would it affect local traffic as well as surrounding air quality for a very lengthy period of time, it would also adversely impact the lives of those who live nearby including the 70 units that face west at the New London Hotel. And we had talked earlier about trying to bring more commerce into the neighborhood. More importantly, it would result in an irreversible loss to the neighborhood's rich past. It should not be overlooked that the proposed new four-story structure with subterranean parking would result in only one more unit than what currently exists at the location. Practically speaking, replacing a West Hollywood landmark circa 1926 to gain a single apartment is something that I and my neighbors just don't believe should be done. And I encourage the Commission to deny this permit and I respectfully encourage the owners of the property to renovate the four existing bungalows that are there. Thank you for your time.

**Altschul:** Jeanne Dobrin?

**Dobrin:** *Jeanne Dobrin, a resident of West Hollywood. I read the report and I was very disturbed by the fact that the staff felt that this was dormant because they heard nothing from the developer or their representatives and they sent several letters, as was told to you by Mr. Contreras with deadlines and they never heard anything. If that happened to me, I would think that somebody didn't want to be bothered and whatever and I think that the staff was correct in thinking that this was a dormant thing. Now the next thing is that it does not meet the code. It doesn't have exemplary design and it...in order to justify the fact that there is no setback on the second floor. According to what I read unless there's been a change, there is no access to the building from the street area, which is a requirement of the code. Aside from that and I appreciate the things that have been said by this lovely attorney and also by the attorney who's the Chair and our City Attorney too, aside from that and I don't understand all of the things that went on, but if I were in a position to deny the construction or approve the construction of this building despite the fact that it does not meet the code in many ways, I would deny it. I think it is one of the ugliest things that I have ever seen. We have a lot of modern architecture in West Hollywood that is very attractive and some that is not so attractive, but this is the worst that I have seen. Thank you.*

**Altschul:** Harriet Segal. That'll be our last speaker.

**Segal:** *Harriet Segal, West Hollywood. Notwithstanding all of the discussion regarding the EIR, the compliance with the different ordinances and the setbacks and everything else, all I can say and Jeanne stole the word from me and this is very odd for me to say something like this, this building is ugly.*

**Altschul:** Thank you. And Ms. Thompson and Mr. Apel you will have up to five minutes for rebuttal.

**Thompson:** *I don't really have...need to take this time. I'd like for us all to go home. I'd like to go home and see my baby. So let me just end with the...some of the items that you touched on as far as would we be willing to go back and to do some things. One of the owners Asher Tal is here. I have consulted with him. We would certainly be not only supportive, but ask you to have a 90-day continuance. We will go file a variance for the open space. And we will bring you back a more modern model that meets with the plans that are in front of you. Again, this has been in limbo. We never got definitive answer on the historical issue and we have been concerned and very conscientious of the enormous amount of expenditures that our client has gone through, but that said, you guys have made some great suggestions to us. We take that in that we understand where you're coming from and if we could get a continuance to file for the variance and to bring you back a much more updated model, we would really appreciate that. Other than that, I'm here for any questions and thank you very much for your time.*

**Altschul:** Donald?

**DeLuccio:** *Well, yeah, I appreciate all you have to say. However, if you were...if we were to give you a continuance and you did come back and at that time I guess we would get a final EIR, I would really still be concerned about how...about the potential historic resource. That's what the EIR would...is going to come back and say and it would require us also to make a recommendation to City Council to do a Statement of Overriding Consideration and that requires some benefits to the City, so that's something else I'd also want you obviously to work with staff on.*

**Thompson:** Of course, absolutely.

**DeLuccio:** Thank you.

**Altschul:** Any other questions of the Applicant? Francisco, John, how long would it take to complete the EIR?

**Contreras:** We could...we will definitely have it within 90 days, if not maybe even a month.

**Altschul:** So there's very little left to do.

**Contreras:** If we're going to move forward with the project as is? Correct.

**Altschul:** And if we're not going to move forward with the project as is and the EIR came and they redesigned it, it would just take a re-designation, so that would be easy too.

**Contreras:** Correct.

**Altschul:** Okay. I would move that we grant a 90-day continuance to a date specific, a date certain. This is the first meeting in June, July, August, September, so the second meeting in September, whatever date that is for the purpose of the City causing the EIR to be completed and the Applicant to redesign the project in accordance with the direction given tonight.

**DeLuccio:** I'll second that.

**Altschul:** Any comments? Discussion?

**Contreras:** Can I make a clarification, that's for the project Applicant to redesign the project in order to comply with the standards?

**Altschul:** Or apply....

**Contreras:** Or to apply for a variance, okay.

**Jenkins:** Or if they choose, they can rest on their argument that the project complies. If you look at...

**Altschul:** They can.

**Jenkins:** ...Ms. Thompson's letter, she believes that the project complies as is and I don't think we should dictate to them whether they apply for a variance or remodel it or continue with the position that they're currently taking.

**Altschul:** But those are their...at least three of their options?

**Jenkins:** Those are their options, yes.

**Altschul:** Thank you. Are we ready for a vote? David?

**Guardarrama:** I just have one comment. I'm not sure how to say this, but I want to save you guys time in, you know, in what you're going to do. Unless the project complies with the Zoning Code, I don't feel any legal basis for voting to approve it and I know that you've made some arguments that it does, but I would really like it to comply with the Zoning Code just, you know, on its face and no legal stretching necessary. And I was not on the Design Review Subcommittee when this project came before it and I think there's only one member of this Commission that was. But in my opinion, it needs some esthetic redesign before it would get my vote and I just want you guys to know that ahead of time.

**DeLuccio:** *And I think I've been clear on my comments as well, you know, about the final EIR and my concern about the Statement of Overriding Consideration. I want to make that quite clear also 'cause I don't want to lead you on.*

**Thompson:** *You've been clear, sir. I don't know that I understand that. If we were to move forward....*

**Altschul:** *This is...wait, wait.*

**Thompson:** *Okay, I just...I'm not sure if I completely understand what he just said.*

**Guardarrama:** *Okay, what I'm saying is I don't like the way it looks and if it's going to come back with just a completed EIR and a façade that is pulled back some and you find some open space, I'm not sure that I can vote for it and I want you guys to know that so you don't come back in 30 days and say we applied for a variance or we found common open space and we pulled back the façade, so therefore we've detrimentally relied on what you say, now you must approve it.*

**Thompson:** *Okay.*

**Altschul:** *Any further comments? Vote?*

**Gillig:** *Chair you motioned, who was the second?*

**DeLuccio:** *I second.*

**Gillig:** *Thank you. This is to continue to September 17<sup>th</sup>, 2009. Chair*  
**Altschul?**

**Altschul:** *Yes.*

**Gillig:** *Vice Chair DeLuccio?*

**DeLuccio:** *Yes.*

**Gillig:** *Commissioner Bernstein?*

**Bernstein:** *Aye.*

**Gillig:** *Commissioner Buckner?*

**Buckner:** *Yes.*

**Gillig:** *Commissioner Guardarrama?*

**Guardarrama:** *Yes.*

**Gillig:** *Commissioner Hamaker?*

**Hamaker:** *Aye.*

**Gillig:** *Motion carries, unanimous.*

**Altschul:** *Thank you.*

*Thompson: Thank you.  
llwci:rg*

*(ITEM 9.C. OFFICIAL RECORDING ENDS).*

10. **NEW BUSINESS.** None.
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. He updated the process regarding the Zone Text Amendment and the Cultural Re-Nomination Process. He provided copies of the Ordinance recently passed by City Council in regards to the Replacement Ordinance and zoning map.
  - B. **Director's Report.** None.
  - A. **General Plan Update.**

Maria Rychlicki, Interim Director of Community Development, provided an update regarding the new firm recently contracted to work on the General Plan.
14. **PUBLIC COMMENT.** None.
15. **ITEMS FROM COMMISSIONERS.** None.
16. **ADJOURNMENT:** The Planning Commission adjourned at 8:55 P.M. to a regularly scheduled meeting of the Planning Commission, which will be on Thursday, June 18, 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 18<sup>TH</sup> DAY  
OF JUNE, 2009.

  
\_\_\_\_\_  
CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
COMMUNITY DEVELOPMENT DIRECTOR