



PLANNING COMMISSION MINUTES
Regular Meeting
June 16, 2011

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

1. CALL TO ORDER:

Chair Yeber called the meeting of the Planning Commission to order at 6:40 P.M.

2. PLEDGE OF ALLEGIANCE: Victor Omelczenko led the Pledge of Allegiance.

3. ROLL CALL:

Commissioners Present: Altschul, Buckner, DeLuccio, Huebner, Meister, Vice-Chair Bernstein, Chair Yeber.

Commissioners Absent: None.

Staff Present: Jennifer Alkire, Associate, Michael Barney, Assistant Planner, Antonio Castillo, Associate Planner, Todd Gish, Contract Urban Planner, Jeffrey Aubel, Code Compliance Manager, Jackie Rocco, Parking Operations Manager, John Keho, Planning Manager, Christi Hogin, Assistant City Attorney, and David Gillig, Commission Secretary.

4. APPROVAL OF AGENDA.

ACTION: Approve the Planning Commission Agenda of Thursday, June 16, 2011 as presented. **Moved by Commissioner DeLuccio, seconded by Commissioner Buckner and unanimously carried.**

5. APPROVAL OF MINUTES.

Chair Yeber requested a clarification on Page 14 of 18, regarding the disclosures of Commissioner Huebner and Chair Yeber.

A. June 2, 2011

ACTION: Approve the Planning Commission Minutes of Thursday, June 2, 2011 as amended. **Moved by Vice-Chair Bernstein, seconded by Commissioner DeLuccio and unanimously carried.**

6. PUBLIC COMMENT.

VICTOR OMELCZENKO, WEST HOLLYWOOD, congratulated incoming Commissioners Huebner and Meister.

7. ITEMS FROM COMMISSIONERS. None.

8. CONSENT CALENDAR.

A. 8301 Sunset Boulevard (Cabo Cantina):

Required six month operational review of the establishment as required by Resolution No. PC 10-949; Condition 3.12, adopted on Thursday, December 2, 2010.

Commissioner Meister requested another review take place in six months.

ACTION: 1) Receive and file; and 2) bring forward another operational review in six months. **Moved by Commissioner Meister, seconded by Commissioner DeLuccio and unanimously carried.**

B. Capital Improvements Plan 2011-2016:

Government Code Section §65401 requires that the City's Planning Commission examine the Capital Improvements Plan (CIP) for consistency with the General Plan. The CIP is a list of the proposed public projects recommended for planning, initiation or construction during the next five fiscal years. A finding of consistency is required for the City Council to be able to the Capital Improvements Plan.

ACTION: 1) Adopt Resolution No. PC 11-975, finding pursuant to California Government Code Section §65401; that the City's Capital Improvements Plan for fiscal years 2011-2016 is consistent with the General Plan. **Moved by Commissioner Meister, seconded by Commissioner DeLuccio and unanimously carried.**

9. PUBLIC HEARINGS.

A. 692 N. Robertson Boulevard (The Abbey):

Continued from Thursday, May 5, 2011. Jennifer Alkire, Associate Planner, provided a visual presentation and background information as presented in the staff report dated Thursday, June 16, 2011.

She stated the applicant is requesting an intensification of use from an existing restaurant with outdoor dining to a bar/nightclub use with outdoor dining and dancing.

She presented a history of the establishment, detailed the project site and surrounding neighborhood, and provided an update on the following items the commission requested from the last meeting.

She detailed parking leases, crime statistics, commercial code compliance issues, public sidewalk queuing, neighborhood meeting, noise issues, food service, extended hours, and dancing. She stated a 1,000' foot radius mailing was implemented, as well as all residents were notified within the Norma Triangle area, Doheny Drive residents, and neighborhood watch captains.

John Keho, Planning Manager, spoke and detailed current parking and zoning regulations, and described the Parking Credits Program.

Mott Smith, Civic Enterprise, Parking Management Program consultant, provided an overview and detailed the Parking Credits Program. He spoke regarding grandfathering, parking use permits, private agreements, available private and public parking spaces, fees and revenue, total number of available parking spaces, parking meters, parking credits tracker, and real parking management for neighborhoods.

Staff supports the applicant's request.

Commissioner Meister had no disclosures.

Commissioner Altschul disclosed for the record he spoke with David Cooley, applicant, and Mark Lehman, applicant's representative. They discussed matters contained in the staff report.

Commissioner Huebner disclosed for the record he made a site visit and spoke with David Cooley, applicant, and Mark Lehman, applicant's representative. They discussed matters contained in the staff report.

Commissioner Buckner disclosed for the record she made a site visit and spoke with David Cooley, applicant, and Mark Lehman, applicant's representative. They discussed matters contained in the staff report.

Commissioner DeLuccio disclosed for the record he spoke with Mark Lehman, applicant's representative. They discussed matters contained in the staff report.

Vice-Chair Bernstein disclosed for the record he made a site visit and spoke with David Cooley, applicant, and Mark Lehman, applicant's representative. They discussed matters contained in the staff report.

Chair Yeber disclosed for the record he made a site visit and spoke with Mark Lehman, applicant's representative. They discussed matters contained in the staff report.

Commissioner Meister requested clarification regarding a purported 35% increase in crime incidents on Robertson Boulevard, and questioned if there were any warning citations or fines issued in the last year. She requested verification regarding parking validation and sign visibility.

Jeffrey Aubel, Commercial Code Compliance Manager, provided dates of all citations issued to The Abbey. He stated for the record yearly conditional use permit reviews are conducted.

Commissioner Meister requested clarification regarding parking leases located at 650 N. La Peer Drive, 665 N. Robertson Boulevard, 8914 Santa Monica Boulevard and 8687 Melrose Avenue. She questioned in-lieu parking fees.

Commissioner Buckner questioned when the parking survey was done.

Mott Smith, Civic Enterprise, Parking Management Program consultant, stated the parking survey was done July, 2009.

Jackie Rocco, Parking Operations Manager, provided clarification of current available municipal parking and private spaces.

Commissioner DeLuccio questioned when the Parking Credits Program would go before City Council. He questioned if there are any current open code compliance citations and if they have been resolved.

Chair Yeber requested clarification regarding the transfer and enforcement of parking leases.

Chair Yeber opened public testimony for Item 9.A.:

MARK LEHMAN, WEST HOLLYWOOD, applicant's representative, presented the applicants report. He detailed the history of the venue, and clarified the off-site parking leases and contracts, public queuing, noise and sound issues,

He requested an amendment to the condition regarding food service; stating The Abbey would like to have their kitchen remain open and food service available during all business hours.

He also stated The Abbey would like minors to remain on the premises until 6:00 p.m., Monday – Friday; and at least until 2:00 pm. Saturday, Sunday, holidays and for special events.

He commented on the changes made to Condition 5.10 regarding sound. He requested support of the application.

DAVID COOLEY, WEST HOLLYWOOD, The Abbey, continued the applicant's report. He thanked all the supporters of The Abbey and spoke and detailed the business operations, intensification of use, city infrastructure, and requested the support to dance.

Commissioner Meister questioned when the re-design took place.

Commissioner DeLuccio requested clarification regarding parking reductions and in-lieu parking fees.

SCOTT SCHMIDT, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

VICTOR OMELCZENKO, WEST HOLLYWOOD, has concerns regarding this item. He spoke regarding the building permit process and questioned the fair share of paid property taxes.

GARY WEINSTEIN, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

GIL EVAN, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

SWHNA MONTELL, LAGUNA BEACH, spoke in support of staff's recommendation of approval.

MIKE BRYANT, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

CASEY ALVA, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

DEREK LORRA, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

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

AARON JAMES, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

KIMBERLY SPAULDING, LOS ANGELES, spoke in support of staff's recommendation of approval.

ADAM KLESH, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

WARREN HOHMARN, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

MADONNA CACCIATORE, LOS ANGELES, spoke in support of staff's recommendation of approval.

PHIL LOBEL, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

LAWRENCE MEIERS, WEST HOLLYWOOD, has concerns regarding this item. He spoke regarding noise mitigation issues.

ERIK FENO, LOS ANGELES, spoke in support of staff's recommendation of approval.

N. MORRE, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

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

YOLA DORE, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

TYLER ROBUCK, LOS ANGELES, spoke in support of staff's recommendation of approval.

DORI SCOTT, BEVERLY HILLS, spoke in support of staff's recommendation of approval.

JACK DEES, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

STEVE MARTIN, WEST HOLLYWOOD, has concerns regarding this item. He spoke regarding the usage of code compliance resources, minors' attendance and spoke in support of staff's recommendation of approval.

NGONI V. NYIRENDA, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

JEANNE DOBRIN, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding the smoking ban, illegal dancing and parking issues.

BOE TRUMBULL, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

MARK LEHMAN, WEST HOLLYWOOD, applicant's representative, presented the applicants rebuttal. He spoke regarding noise and parking issues. He urged support.

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

Commissioner Altschul spoke regarding noise mitigation issues and repercussions. He commented on the overwhelming show of support from the community and spoke in support of the application.

Commissioner Meister reiterated seventy-four people signed petitions with concerns regarding this establishment. She requested clarification from staff regarding the conditional use permit and questioned what the benefits would be to the city. She stated her concerns with the parking, outdoor speakers on the patio, live entertainment, and stated a sound engineer should be brought forward to mitigate noise concerns from the residents. She stated she would have no issues if a Business Improvement District (BID) was in place for Robertson Boulevard and Santa Monica Boulevard West. All these issues should be addressed before the application is approved, not after.

Vice-Chair Bernstein spoke in support of staff's recommendation of approval. He suggested the condition regarding minors should read until 9:00 p.m. on weeknights and until 6:00 p.m. on Saturday and Sunday. Special events should be allowed, but should be classified under special event permits.

Commissioner DeLuccio spoke in support of staff's recommendation of approval. He spoke regarding the reduced parking space issues, in-lieu fees, the intensification of use for a dance floor, security, and encouraged the applicant to take a lead in creating a Business Improvement District.

Commissioner Buckner stated her concerns with approving a conditional use permit just because they have been operating as such in the past. She spoke in support of minors, and support's staff's recommendation of approval.

Commissioner Huebner spoke in support of staff's recommendation of approval. He stated his support of the additional conditions brought forth by the applicant. He had concerns regarding sound mitigation. He acknowledged there should be no significant impact on parking and stated his support of the Parking Credits Program.

Chair Yeber spoke in support of staff's recommendation of approval. He had concerns with the increase in crime and the possible future impacts to the neighborhood, and sound mitigation issues.

Vice-Chair Bernstein moved to: 1) approve staff's recommendation of approval with the following conditions incorporated: a) Section 2.5 "Pursuant to WHMC 19.28.080, if the applicant chooses not to provide all or any portion of the seventy-five (75) off-site parking spaces required pursuant Parking Use Permit 2007-007 as amended by Section 2.2 of this Resolution, the applicant shall pay an in-lieu parking fee of \$20,000 per space not so provided. Prior to commencement of the use permitted herein, the applicant may provide a bond or letter of credit in the amount of 10% of the applicable in-lieu parking fee. If a parking credit program is established for this area and the applicant promptly commits to participation in the program and pays all required fees, then the bond/letter of credit shall be released upon the Director's determination that participation in the parking credit program eliminates the need for in-lieu parking. Full payment of the in-lieu parking fee is required within ninety (90) days of adoption of the parking credit program if applicant opts out of said program"; b) Section 4.25 "The kitchen on the Premises shall be operational and food service shall be available to patrons during all business hours"; c) Section 5.10 "The applicant shall fully cooperate with the City in conducting sound demonstrations and testing. Sound levels shall be observed and measured to determine whether the music and sound from operations on applicant's Premises are plainly audible at nearby residences and the speakers, sound system, volume and equalization of the music on applicant's premises shall be adjusted accordingly, subject to approval by the Community Development Director"; and d) Section 4.26 shall be amended as follows: "*minors shall be permitted entry to the premises until at least 9:00 p.m. daily, except for Friday's, Saturday's, Sunday's, holiday's and special events, when minors shall be permitted entry until at least 6:00 p.m. or as otherwise established by the applicable special event permit.*"

Seconded by Commissioner DeLuccio.

Commissioner Altschul expressed his concern with the hours minors are permitted. He suggested a change to the verbiage stating minors shall not be allowed after 12:00 midnight.

Vice-Chair Bernstein agreed to this amendment; restating "*minors shall not be allowed any night after midnight.*"

Commissioner DeLuccio agreed to this amendment.

Jeffrey Aubel, Code Compliance Manager, stated his concern with the amended verbiage regarding “minors shall not be allowed any night after midnight: **He strongly suggested this time be amended to 9:00 p.m.**

Vice-Chair Bernstein agreed to this amendment.

Commissioner DeLuccio agreed to this amendment.

Discussion regarding verbiage in relation to minors and time were discussed at length.

Vice-Chair Bernstein confirmed the verbiage: a) “Minor’s shall be allowed to occupy the premises until 9:00 p.m. weekdays; 6:00 p.m. weekends.”

ACTION: 1) Approve the application; and 2) Adopt Resolution No. PC 11-968 as amended with the following conditions: a) Section 2.5 “Pursuant to WHMC Section §19.28.080, if the applicant chooses not to provide all or any portion of the seventy-five (75) off-site parking spaces required pursuant Parking Use Permit 2007-007 as amended by Section 2.2 of this Resolution, the applicant shall pay an in-lieu parking fee of \$20,000 per space not so provided. Prior to commencement of the use permitted herein, the applicant may provide a bond or letter of credit in the amount of 10% of the applicable in-lieu parking fee. If a parking credit program is established for this area and the applicant promptly commits to participation in the program and pays all required fees, then the bond/letter of credit shall be released upon the Director’s determination that participation in the parking credit program eliminates the need for in-lieu parking. Full payment of the in-lieu parking fee is required within ninety (90) days of adoption of the parking credit program if applicant opts out of said program”; b) Section 4.25 “The kitchen on the Premises shall be operational and food service shall be available to patrons during all business hours”; c) Section 5.10 “The applicant shall fully cooperate with the City in conducting sound demonstrations and testing. Sound levels shall be observed and measured to determine whether the music and sound from operations on applicant’s Premises are plainly audible at nearby residences and the speakers, sound system, volume and equalization of the music on applicant’s premises shall be adjusted accordingly, subject to approval by the Community Development Director”; d) Section 4.26 shall be amended as follows: “*minors shall be allowed to occupy the premises until at least 9:00 p.m. daily, except for Friday’s, Saturday’s, Sunday’s, holiday’s and special events, when minors shall be allowed to occupy the premises until at least 6:00 p.m. or as otherwise established by the applicable special event permit*”; “A RESOLUTION OF THE PLANNING COMMISSISON OF THE CITY OF WEST HOLLYWOOD, CONDITIONALLY APPROVING A DEVELOPMENT PERMIT AND

CONDITIONAL USE PERMIT AND AMENDING A PARKING USE PERMIT TO ALLOW FOR THE INTENSIFICATION OF USE FROM A RESTAURANT TO A BAR/NIGHTCLUB AT AN EXISTING ESTABLISHMENT, LOCATED AT 692 N. ROBERTSON BOULEVARD, WEST HOLLYWOOD, CALIFORNIA"; and 3) Close Public Hearing Item 9.A. **Moved by Vice-Chair Bernstein, seconded by Commissioner DeLuccio and passes on a Roll Call Vote:**

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

NOES: Meister.

ABSENT: None.

RECUSED: None.

THE COMMISSION TOOK A TEN (10) MINUTE RECESS AT 8:50 P.M. AND RECONVENED AT 9:00 P.M.

B. 8948 Santa Monica Boulevard (Bar Varsity):

Continued from Thursday, May 5, 2011. Michael Barney, Assistant Planner, provided an oral presentation and background information as presented in the staff report dated Thursday, June 16, 2011.

He stated the applicant is requesting demolition of the existing structure and the construction of a two-story, 5,212 square-foot bar/night club with full alcohol service, 1,604 square-foot outdoor area and off-site parking.

He presented a history of the establishment, detailed the project site and surrounding neighborhood, and provided an update on the following items the commission requested from the last meeting. He detailed parking leases, crime statistics, final design and materials, urban design, public sidewalk queuing, neighborhood meeting, and noise mitigation issues. He stated a 1,000' foot radius mailing was implemented, as well as all neighborhood watch captains were notified.

He read into the record added conditions 11.6; 11.7; 11.8; 11.9 and 11.10 of Resolution No. PC 11-961.

Staff recommends approval.

Todd Gish, Contract Urban Designer, presented the urban design analyses. He spoke on neighborhood compatibility, constructability, context of design, mass and scale, architectural rhythm, and materials.

Commissioner Meister had no disclosures.

Commissioner Altschul had no disclosures.

Commissioner Huebner had no disclosures.

Commissioner Buckner had no disclosures.

Commissioner DeLuccio had no disclosures.

Vice-Chair Bernstein had no disclosures.

Chair Yeber had no disclosures.

Chair Yeber opened public testimony for Item 9.B.:

ELIE SAMAHA, WEST HOLLYWOOD, applicant's representative, presented the applicant's report. He provided a brief history of the project and introduced the team. He urged support of the application and project.

RYAN CARRILLO, WEST HOLLYWOOD, applicant's representative, continued the applicant's report. He requested a change to the hours of operation from 9:00 a.m. to 2:00 a.m. He introduced the architect.

GULLA JONSDOTTIR, WEST HOLLYWOOD, applicant's representative, continued the applicant's report. She spoke in support of the project.

DEREK WILLIAMSON, SILVER LAKE, applicant's representative, continued the applicant's report. He spoke and detailed sound mitigation issues, building materials, lighting, and construction mitigation.

DAVID KELLEN, LOS ANGELES, Project Architect, continued the applicant's report. He spoke and detailed the design and stated they do not have an exhibition kitchen, therefore, fly fans will be accepted by the health department. He spoke in support of the project.

Chair Yeber requested clarification regarding construction timelines and questioned the boarding around the site.

Commissioner Meister requested clarification regarding the glass roll-up doors.

THE COMMISSION TOOK A FIVE (5) MINUTE RECESS AT 9:15 P.M. TO VIEW THE MASSING MODEL AND RECONVENED AT 9:20 P.M.

VICTOR OMELCZENKO, WEST HOLLYWOOD, has concerns regarding this item. He spoke regarding the design.

EVA PEREZ, LOS ANGELES, spoke in support of staff's recommendation of approval.

ROBERT LUCERO, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

ADAM VILLA, LOS ANGELES, spoke in support of staff's recommendation of approval.

DARRYL HICKS, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

BOE TRUMBULL, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

CANDIS CAYNE, LOS ANGELES, spoke in support of staff's recommendation of approval.

JEANNE DOBRIN, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding the design, loss of on-site parking and stated it needs to be approved as a restaurant, not a bar.

ANDREW DRUVER, WEST HOLLYWOOD, applicant, presented the applicant's rebuttal. He introduced himself and spoke in support of the project.

ELIE SAMAHA, WEST HOLLYWOOD, applicant's representative, continued the applicant's rebuttal. He spoke regarding traffic issues at the corner of Santa Monica Boulevard and Robertson Boulevard.

Chair Yeber requested clarification regarding the material boards.

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

Commissioner Huebner commented on the challenges of the property site. He had concerns regarding the design, articulation and pedestrian access along Robertson Boulevard. He would like to see a further setback along Robertson Boulevard to improve pedestrian activity.

Commissioner Buckner had concerns with the pedestrian access along Robertson Boulevard. She inquired if there could be an additional setback along Robertson Boulevard to improve pedestrian traffic. She spoke in support of the design and project.

Commissioner DeLuccio commented on the design and the challenges of the property site. He inquired if there could be an additional setback along Robertson Boulevard to improve pedestrian traffic.

Commissioner Meister questioned if the Robertson Boulevard side could be setback.

DAVID KELLEN, LOS ANGELES, Project Architect, stated for the record they are willing to move the Robertson Boulevard side of the project back an additional three feet.

Commissioner Altschul stated his support of the design. He had concerns with the development if it doesn't succeed in its current incarnation.

Vice-Chair Bernstein stated his support of the conditional setback. He had concerns why this is a nightclub, as opposed to a restaurant. He stated if this item does move forward, he would like to see the kitchen remain open and give some considerations to minors during the daytime hours.

Commissioner Meister questioned why this is a nightclub, as opposed to a restaurant. She had concerns there were not any contextual renderings showing the project in relation to the neighborhood. She stated her support if this could be conditioned as a restaurant, until a Santa Monica Boulevard Business Improvement District (BID) and the Parking Credits Program is in place. She stated her support with the conditioned setback along Robertson Boulevard.

Chair Yeber stated his support if this was conditioned as a restaurant with a bar component, rather than a bar/nightclub. He commented on the design and stated his support of the Parking Credits Program and utilizing the municipal parking garage.

Commissioner DeLuccio questioned what type of Alcoholic Beverage Control (ABC) license is being requested.

ELIE SAMAHA, WEST HOLLYWOOD, applicant's representative, stated for the record an Alcoholic Beverage Control (ABC) 47 license has been applied for.

Discussion was held regarding special event permits.

Commissioner Meister requested clarification regarding public queuing and security.

Commissioner DeLuccio moved to: 1) approve staff's recommendation of approval, with the following conditions: a) a three foot wall setback along Robertson Boulevard; b) the kitchen on the Premises shall be operational and food service shall be available to patrons during all business hours; c) minors shall be allowed to occupy the premises until at least 9:00 p.m. daily, except for Friday's, Saturday's, Sunday's, holiday's and special events, when minors shall be allowed to occupy the premises until at least 6:00 p.m. or as otherwise established by the applicable special event permit; and d) the applicant shall fully cooperate with the City in conducting sound demonstrations and testing. Sound levels shall be observed and measured to determine whether the music and sound from operations on applicant's Premises are plainly audible at nearby residences and the speakers, sound system, volume and equalization of the music on applicant's premises shall be adjusted accordingly, subject to approval by the Community Development Director.

Seconded by Vice-Chair Bernstein.

Chair Yeber requested the following addition to the motion: 1) the boarding during construction will be of an "artistic nature" and shall be maintained during the entire construction period.

Commissioner DeLuccio accepted this amendment.

Vice-Chair Bernstein accepted this amendment.

Commissioner Altschul stated his concerns regarding the condition regarding minors. He would like to reconsider this amendment.

Straw vote keeping the original motion regarding "minors":

Commissioner Meister: Aye.

Commissioner Altschul: No.

Vice-Chair Bernstein: Aye.

Commissioner Huebner: Aye.

Commissioner Buckner: Aye.

Commissioner DeLuccio: Aye.

Chair Yeber: Aye.

Michael Barney, Assistant Planner read into the record, the applicant's request for an amendment in operating hours: Indoor and outdoor from 9:00 a.m. to 2:00 a.m. daily.

Commissioner DeLuccio was not amicable to the requested amendment. Hours shall remain as staff originally recommended.

ACTION: 1) Approve the application; and 2) Adopt Resolution No. PC 11-961 as amended with the following conditions: a) a three foot wall setback along Robertson Boulevard; b) the kitchen on the Premises shall be operational and food service shall be available to patrons during all business hours; c) minors shall be allowed to occupy the premises until at least 9:00 p.m. daily, except for Friday's, Saturday's, Sunday's, holiday's and special events, when minors shall be allowed to occupy the premises until at least 6:00 p.m. or as otherwise established by the applicable special event permit; d) the applicant shall fully cooperate with the City in conducting sound demonstrations and testing. Sound levels shall be observed and measured to determine whether the music and sound from operations on applicant's Premises are plainly audible at nearby residences and the speakers, sound system, volume and equalization of the music on applicant's premises shall be adjusted accordingly, subject to approval by the Community Development Director; e) the boarding during construction will be of an "artistic nature" and shall be maintained during the entire construction period: "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, CONDITIONALLY APPROVING DEMOLITION PERMIT, DEVELOPMENT PERMIT, CONDITIONAL USE PERMIT, AND PARKING USE PERMIT FOR THE DEMOLITION OF THE EXISTING STRUCTURE IN ORDER TO CONSTRUCT A NEW 5,212 SQUARE-FOOT BAR/NIGHTCLUB WITH FULL ALCOHOL SERVICE, 1,604 SQUARE-FOOT OUTDOOR AREA AND OFF-SITE PARKING, LOCATED AT 8948 SANTA MONICA BOULEVARD, WEST HOLLYWOOD, CALIFORNIA"; and 3) Close Public Hearing Item 9.B. **Moved by Commissioner DeLuccio, seconded by Vice-Chair Bernstein and passes on a Roll Call Vote:**

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

NOES: None.

ABSENT: None.

RECUSED: None.

THE COMMISSION TOOK A TEN (10) MINUTE RECESS AT 10:00 P.M. AND RECONVENED AT 10:10 P.M.

C. 1350 N. Hayworth Avenue:

Laurie Yelton, Associate Planner, provided an oral presentation and background information as presented in the staff report dated Thursday, June 16, 2011.

She stated the applicant is requesting to demolish a sixteen-unit apartment building and to construct a four-story, seventeen-unit condominium building.

She provided a detailed history of the project, stating the application for the proposed project was submitted to the Community Development Department on January 19, 2006 (prior to the adoption of revised development standards in the R4 zone). On June 4, 2007, the West Hollywood City Council adopted Ordinance No. 07-759U, an interim ordinance modifying the standards for construction of new multi-family residential structures in the R3 and R4 zone districts on an interim basis pending the development of new standards (also referred to as the IZO).

On July 16, 2007, the City Council subsequently extended the interim ordinance for an additional ten months and fifteen days and thereafter extended the interim ordinance for another year. The property owner contended that the Hayworth property was exempt from the interim ordinance and that they were entitled to proceed with the application under the development standards and requirements in existence on June 4, 2007 immediately prior to the adoption of the interim ordinance. The City disagreed with this contention, and the owner filed suit against the City challenging the interim zoning ordinance and its application to the Hayworth property on a variety of grounds. The trial court agreed with the City and the owner appealed. The Court of Appeal reversed the decision of the trial court and remanded the case for further proceedings. The Court of Appeal found that the IZO could not be applied to this multifamily housing project.

As a result of that decision, the application is subject to the development standards in existence on June 4, 2007 (i.e. the project may not exceed 45 feet in height, 4 stories and 17 dwelling units). Additionally, the project does not have to comply with the green building, average unit size and compatibility finding requirements .

After the Court of Appeal decision, the owners proceeded with a claim against the City for damages for not being allowed to develop the property during the life of the IZO and before the economic recession. The City and the property owner settled the question of damages (and avoided going to trial on the issue) by entering into a settlement agreement. Under the settlement agreement the owner could apply to the City for a development agreement ("DA"). The DA would vest the owner's rights to

develop project over the next ten years, during which time the housing market may recover, allowing the owner to recoup some of its investment. In exchange for the development agreement, the property owner would forgo a trial on the damages claim. It is likely that the property owner will pursue his claim for damages against the City in the event that the project is ultimately denied. Disposal of the claim for damages constitutes a tangible benefit to the City in exchange for the allowing development under fixed standards for the next 10 years. If the DA is not approved, the settlement agreement provides that the property owner may pursue its claims. The settlement agreement does not obligate the City to approve the project.

The settlement agreement also states that the City will diligently and expeditiously process the application, comply with CEQA, and schedule a public hearing before the Planning Commission to consider the development agreement and map amendment on a date that is no later than 180 days after the date a complete application is filed, and a public hearing before the City Council on a date that is no later than 45 days after a recommendation is made by the Planning Commission.

The overall consensus of the Historic Preservation Commission is that there will be significant impacts to the adjacent historically designated Hollywood Riviera building. The Commission believes that the design of the proposed building is not compatible with the neighborhood because of its modern design, height, bulk, and scale of the building. They agreed with staff's suggestion of "un-roofing" the northern balconies on the 4th floor and suggested that the applicant provide a shade study.

With respect to historic buildings, CEQA says that a project that may have a significant effect on the environment if it causes a substantial adverse change in the significance of an identified historical resource. In other words, if the project will cause the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings *such that the significance of the resource would be materially impaired*, then there may be a significant impact on the environment. Materially impaired means that the building would be demolished, or the project would adversely alter those characteristics that make it eligible for designation on the historic register. Even if a significant impact has been identified, mitigation measure may be adopted to avoid material impairment to the historic resource.

The Hollywood Riviera was designated for its post-war courtyard design by the notable architect Edward H. Fickett. The character defining elements of the property are the square plan and courtyard; exterior stucco; recessed first story and entry; butterfly roof; windows; sign; fins; plywood; balconies; exterior staircases and second-floor windows. See City Council Resolution 10-4099. The Commission's concerns with the project do not

necessarily identify adverse changes to the historical significance of the Hollywood Riviera, or identify any specific impacts to the Riviera property that warrant specific mitigation measures. Although the HPC is authorized to provide comments on potential impacts to the historic property, most of the Commission's comments were related only to the general compatibility of the project, which is technically beyond the Commission's jurisdiction.

She additionally spoke regarding the neighborhood meeting, affordable housing, urban design, massing and height, setbacks, neighborhood compatibility, materials, parking, landscaping, shade and shadow study.

Todd Gish, Contract Urban Designer, presented the urban design analyses. He spoke on neighborhood design characteristics, neighborhood compatibility, landscaping, mass and scale, setbacks, height, and exterior materials.

John Keho, Planning Manager, stated staff from the Rent Stabilization Department is available for residents if they have any concerns regarding future relocation issues.

Staff recommends approval.

Commissioner Huebner had no disclosures.

Commissioner Buckner had no disclosures.

Commissioner DeLuccio had no disclosures.

Commissioner Meister had no disclosures.

Commissioner Altschul had no disclosures.

Vice-Chair Bernstein had no disclosures.

Chair Yeber had no disclosures.

Vice-Chair Bernstein requested clarification regarding the compatibility factors and requested legal counsel direction for the commission.

Commissioner Meister requested clarification how staff came to the conclusion this project has no significant impacts and questioned the shade and shadow studies.

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

JAY VANOS, LOS ANGELES, architect, presented the applicant's report. He provided a history of the project and spoke regarding neighborhood compatibility, landscaping, courtyard amenities, unit styles, massing, height, design, setbacks, elevations, and detailed shade and shadow issues.

VICTOR OMELCZENKO, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

ALLEGRA ALLISON, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

ART SCOTTI, WEST HOLLYWOOD, has concerns regarding this item. He spoke regarding height, tandem parking and landscaping issues.

STEVE BAVA, WEST HOLLYWOOD, has concerns regarding this item. He spoke regarding neighborhood compatibility, and shade and shadow study issues.

VIRGINIA GILLICK, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

LINDA RUIZ, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding shade and shadow issues.

WILLIAM LEE MATIS, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

CHARLES RUIZ, WEST HOLLYWOOD, has concerns regarding this item. He spoke regarding shade and study issues.

THOMAS MAGAZENO, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

STEVE WARD, BEVERLY HILLS, representing the Los Angeles Conservancy, has concerns regarding this item. He spoke regarding neighborhood compatibility issues.

JEFF HINER, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

WILLIAM PETERSEN, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

TOM FUCHS, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

CHRISTINA SCHUCH, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding neighborhood compatibility and design issues.

DAN RIFFEL, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

CATHERINE D. SOTAK, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

SCOTT SELSOR, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

MINNA KIM, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

BARBARA ROBERTSON, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding architectural design and neighborhood compatibility issues.

STEVE MARTIN, WEST HOLLYWOOD, has concerns regarding this item. He spoke regarding neighborhood compatibility, massing and landscaping issues.

JEANNE DOBRIN, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding shade and shadow, and tandem parking issues.

LEE STERN, WEST HOLLYWOOD, opposes staff recommendation of approval to City Council.

JAY VANOS, LOS ANGELES, architect, presented the applicant's rebuttal. He spoke and detailed the tandem parking and neighborhood development rights.

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

Commissioner Altschul spoke regarding neighborhood development rights, tandem parking issues, and the interim Zoning Ordinance.

Commissioner Meister stated the city had tools in the past to say this project was not compatible with the surrounding buildings. She detailed the Multi-Family Housing Code; and based on that, this project is not compatible with the block. She stated the Negative Declaration is not

adequate in terms of aesthetics, historic buildings, and the shade and shadow study. The City needs to stand behind the interim Zoning Ordinance and the compatibility ordinance. She recommended denial to City Council.

Vice-Chair Bernstein stated his support for the in-fill architecture. He spoke regarding the massing, tandem parking, and affordable housing. He would recommend negotiations to either take over the building or approve a more modest building and come up with an appropriate compensation package.

Commissioner DeLuccio commented on neighborhood compatibility and stated this project is not compatible with the block. In its present form, he could not recommend this project to City Council.

Commissioner Huebner had concerns with the shade and shadow study. He commented on the massing and height, and stated it is incompatible with the street. He could not support it in its current form.

Chair Yeber stated he is not convinced it has any substantive impact on The Hollywood Riviera, even from a shade and shadow study. He spoke regarding current impacts and side yards. He stated the building is a little imposing and stated he would like to see the building more "slight" and responding a little better to the immediate context of the neighborhood.

Commissioner DeLuccio moved to: 1) recommend denial of Draft Resolution Nos. PC 11-972; PC 11-973 and PC 11-974; and 2) stating the project is too massive and is not compatible with for the neighborhood.

Seconded by Commissioner Huebner.

ACTION: 1) Recommend to City Council denial of the application request, forwarding comments the project is too massive and is not compatible with the neighborhood; 2) Adopt Resolution No. PC 11-972: "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, RECOMMENDING THAT THE CITY COUNCIL DENY THE DEVELOPMENT AGREEMENT AND ZONE MAP AMENDMENT, WHICH WOULD CREATE A DEVELOPMENT AGREEMENT OVERLAY DISTRICT ON THE PROPERTY LOCATED AT 1350 N. HAYWORTH AVENUE, WEST HOLLYWOOD, CALIFORNIA"; 3) Adopt Resolution No. PC 11-973: "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, RECOMMENDING THAT THE CITY COUNCIL DENY TENTATIVE TRACT MAP (MAJOR LAND DIVISION NO. 66227), FOR THE PROPERTY LOCATED AT 1350 N. HAYWORTH AVENUE, WEST HOLLYWOOD, CALIFORNIA"; 4) Adopt Resolution No. PC 11-974: "A RESOLUTION OF THE PLANNING

COMMISSION OF THE CITY OF WEST HOLLYWOOD, RECOMMENDING THAT THE CITY COUNCIL DENY THE DEMOLITION PERMIT AND DEVELOPMENT PERMIT, AND DENY THE ADOPTION OF A NEGATIVE DECLARATION, FOR THE DEMOLITION OF SIXTEEN DWELLING UNITS AND THE CONSTRUCTION OF A FOUR-STORY, SEVENTEEN-UNIT CONDOMINIUM BUILDING, LOCATED AT 1350 N. HAYWORTH AVENUE, WEST HOLLYWOOD, CALIFORNIA"; and 6) close Public Hearing Item 9.C. **Moved by Commissioner DeLuccio, seconded by Commissioner Huebner passes on a Roll Call Vote:**

AYES: DeLuccio, Huebner, Meister, Vice-Chair Bernstein.
NOES: Altschul, Buckner, Chair Yeber.
ABSENT: None.
RECUSED: None.

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 regarding upcoming projects tentatively scheduled for Planning Commission.

B. Community Development Director's Report.

Anne McIntosh, Deputy City Manager, Community Development Director, announced Melissa Antol, has been hired as the Long Range and Mobility Planning Manager. She will be starting on Monday, June 27, 2011.

The General Plan will be going back to the City Council on Monday, June 20, 2011 for additional discussion. Staff will be asking for additional funding to administer further studies and a possible community meeting.

14. PUBLIC COMMENT.

STEVE WARD, BEVERLY HILLS, representing the Los Angeles Conservancy, commented on and urged the preservation of the Fickett Library (L.A. County Library building in West Hollywood Park).

15. ITEMS FROM COMMISSIONERS.

Vice-Chair Bernstein requested staff to facilitate some type of training or presentation regarding economic impacts and developments.

16. **ADJOURNMENT:** The Planning Commission adjourned at 11:45 P.M. to a regularly scheduled meeting of the Planning Commission, which will be on Thursday, June 16, 2010 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 7TH DAY OF JULY, 2011.



CHAIRPERSON

ATTEST:



DAVID K. GILLIG, COMMISSION SECRETARY