



PLANNING COMMISSION MINUTES
Regular Meeting
December 19, 2013

West Hollywood Park Public Meeting Room – Council Chambers
625 N. San Vicente Boulevard, West Hollywood, California 90069

1. **CALL TO ORDER:** Chair DeLuccio called the meeting of the Planning Commission to order at 6:35 P.M.
2. **PLEDGE OF ALLEGIANCE:** John Altschul led the Pledge of Allegiance.
3. **ROLL CALL:**
Commissioners Present: Aghaei, Altschul, Shink, Yeber, Vice-Chair Huebner, Chair DeLuccio.

Commissioners Absent: Buckner.

Staff Present: Scott Lunceford, Assistant Planner, Antonio Castillo, Associate Planner, Peter Noonan, Rent Stabilization and Housing Manager, Elizabeth Savage, Director of Human Services and Rent Stabilization, David DeGrazia, Acting Current and Historic Preservation Planning Manager, John Keho, Assistant Community Development Director, Christi Hugin, Assistant City Attorney, and David Gillig, Commission Secretary.
4. **APPROVAL OF AGENDA.**
ACTION: Approve the Planning Commission Agenda of Thursday, December 19, 2013 as presented. **Moved by Commissioner Altschul, seconded by Commissioner Aghaei and passes, noting Commissioner Buckner absent.**
5. **APPROVAL OF MINUTES.**

A. November 21, 2013

ACTION: Approve the Planning Commission Minutes of Thursday, November 21, 2013 as presented. **Moved by Commissioner Yeber, seconded by Commissioner Shink and passes; noting Commissioner Buckner absent.**
6. **PUBLIC COMMENT.**
STEPHANIE HARKER, WEST HOLLYWOOD, spoke in support of the City Council discussion item regarding the appropriateness of architecture in the neighborhoods. She thanked commission and staff for their service to the community and wished everyone happy holidays.

NINA HICKOX, WEST HOLLYWOOD, spoke regarding the approval of the cell tower at 851 N. San Vicente Boulevard, West Hollywood, California. She stated there was false information given to the Planning Commission, indicating the Home Owners Association (HOA) did not vote on this item until November 26, 2013. She had concerns regarding the approval process.

Chair DeLuccio stated the Home Owners Association articulated during the Planning Commission hearing that they had not had their meeting to vote yet.

CATHY BLAIVAS, WEST HOLLYWOOD, had concerns and clarified the issues regarding Plummer Park and the community. She wished everyone a healthy and happy holiday.

7. DIRECTOR'S REPORT.

John Keho, Assistant Community Development Director presented the Director's Report.

On Tuesday, December 17, 2013, there was a special meeting of the Director's Hearing. He stated permits were approved for Cooley's, located at 8934-8940 Santa Monica Boulevard; a restaurant with alcohol service. The requested extended business hours (after-hours) was denied.

On Monday, December 16, 2013, City Council received an update on the neighborhood meeting and West Hollywood West, regarding compatibility study regarding new construction of single-family homes in the neighborhood. The report also contained a list of items that staff is using in the review process for new single-family homes. Some of those items include the size and massing, quality of materials, privacy issues, landscaping and overall compatibility.

He stated staff intends to go back to the neighborhood with another meeting with some options of how to move forward regarding different ways of looking at new designs for single-family homes.

City Council approved the zone text amendment regarding the process for home remodels; sometimes known as the 50% rule.

Commissioner Yeber requested clarification on the compatibility concerns.

John Keho, Assistant Community Development Director, stated he will forward the City Council staff report regarding these concerns.

8. ITEMS FROM COMMISSIONERS. None.

9. CONSENT CALENDAR. None.

10. PUBLIC HEARINGS.

Vice-Chair Huebner recused himself from the meeting at this time; notating his residence is within the 500 foot radius of the project site.

A. 8505 Santa Monica Boulevard #3 (Paint Lounge):

Scott Lunceford, Assistant Planner provided an oral and visual presentation and background information as presented in the staff report dated Thursday, December 19, 2013.

He stated the applicant is requesting approval of the sales, service, and consumption of beer and wine in conjunction with a painting studio with ten or fewer students per class.

He provided a history of the property, stating on October 30, 2013, the tenant space was approved to allow the conversion of a retail tenant space into an art studio space with ten or fewer students per class for a proposed painting studio use without on-site beer and wine service. The intensification of use required two additional parking spaces. To satisfy the parking requirements for the project, the operating hours for the business were limited to after 7:00 pm Monday through Saturday when most of the other on-site businesses are closed.

The request requires a similar use determination granted through approval of a conditional use permit, because the proposed use is not listed in the permitted use chart for commercial zoning districts.

The two listed uses that are most similar to the proposed use are: 1) art studio, and 2) nightclubs/bars. The proposed painting use is requesting incidental beer and wine sales; it cannot be placed strictly into either of these categories. Through appropriate conditioning, that addressed operational concerns, all the required findings for a similar use determination and for the conditional use permit, can be satisfied. These conditions include: 1) closing the business by 10:00 p.m.; Sunday through Thursday, and 11:00 p.m. Friday and Saturday; 2) not permitting live entertainment; and 3) only allowing the on-site sales, service, and consumption of beer and wine, in conjunction with attendance of a painting class.

The applicant has applied to the State Department of Alcoholic Beverage Control (ABC) for a Type 42 on-sale beer and wine license. According to the ABC, there are eleven full-service restaurants where alcohol is served incidental to meal service, and four retail stores that sell alcohol for off-site consumption within the general vicinity.

Staff is satisfied the business will function essentially as a painting instruction studio, and not transform into a more intensive use. Also the proposed business will not involve a higher level of activity than a typical art studio use, due to the projected patronage of ten to twenty customers per day. The parking demand would not be in excess of ten students per class.

Staff is in support and recommends approval.

Commissioner Shink questioned how many classes are anticipated per day.

Scott Lunceford, Assistant Planner, stated staff anticipates one class per day, Monday through Saturday, and two classes on Sundays.

Chair DeLuccio requested clarification regarding special events for this location.

Chair DeLuccio opened the public hearing for Item 10.A.:

PHIM MASONE, LA HABRA, applicant representative, stated he is available to answer any questions.

Commissioner Altschul questioned if the applicant rents this space in its entirety, or if it is shared with another occupant.

PHIM MASONE, LA HABRA, applicant representative, stated for the record Space #3 is just for the art studio. It will be closed during the daytime hours.

Commissioner Altschul requested clarification regarding the children's classes, and questioned if children of the attendees of the nighttime classes will be allowed in the classes with their parents.

PHIM MASONE, LA HABRA, applicant representative, stated at these time, only young adults over 21 years of age and older will be allowed. They are not anticipating having children at this time.

Commissioner Yeber requested clarification regarding class hours.

Commissioner Altschul questioned how the service and consumption of alcohol contributes to the education, learning and function of the art class.

PHIM MASONE, LA HABRA, applicant representative, stated the alcohol sales are incidental to the operation, so it will be a small percentage of the overall business. Teaching art is the main core of the business.

Commissioner Altschul reiterated the question of how the service and consumption of alcohol contributes to the education, learning and function of the art class.

PHIM MASONE, LA HABRA, applicant representative, stated it is only to enhance the experience; however that will not be the focus. They are not intending to make a profit off the alcohol.

Commissioner Shink requested clarification regarding the ambient background music and noise.

PHIM MASONE, LA HABRA, applicant representative, stated the music that will be playing in the background will be “soft-toned”. It will not disturb the neighborhood.

Commissioner Aghaei requested clarification regarding the sales of the alcohol beverages.

PHIM MASONE, LA HABRA, applicant representative, stated the business plan at this time will be per order. It is not included in the lesson packages. There will be a limit of one drink at a time.

DENTON LAI, LOS ANGELES, owner, continued the applicant’s report. He clarified they will only be serving alcohol during the break times. He stated within a three hour class, each hour will have one 15 minute break; two breaks total. Students will be able to purchase one glass of alcohol at that time. During this time, the instructor will have time to go around and talk to the students to make sure they complete a painting. It will be like social painting.

Chair DeLuccio questioned if the applicant would be amiable to a condition regulating the amount of two drinks per class; per student.

DENTON LAI, LOS ANGELES, owner, stated they would be amiable to that condition.

JEANNE DOBRIN, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding alcoholic beverage restrictions and food service. She stated this case is not appropriate to be heard by the Planning Commission. She requested denial.

STEPHANIE HARKER, WEST HOLLYWOOD, has concerns regarding this item. She spoke regarding public safety issues; drinking and driving.

SEAN JACOBY, LOS ANGELES, applicant’s representative, presented the applicant’s rebuttal. He expounded on the relevance of liquor. He stated it is primarily to relax the nervous students who are painting for the first time. It is really a social gathering, where they will learn to paint and come home with a piece of art that they made themselves and socialize with their friends. It is not to be a bar establishment.

ACTION: Close public hearing for Item 10.A.: **Motion carried by consensus of the Commission.**

Commissioner Altschul stated this would be an enforcement nightmare, and indicated an art studio should not be coupled with selling beer and wine.

Discussion and clarification was given regarding special event permits.

Chair DeLuccio questioned if they can limit the number of drinks to serve.

Christi Hogin, Assistant City Attorney, stated the city has land use regulation authority. The city is able to regulate whether or not a restaurant, a bar, or even a paint studio with alcohol service is compatible with the neighborhood and zone, but cannot regulate the consumption and sale of alcohol. Cities are preempted from doing that.

Commissioner Shink requested clarification of the overall approval process and why this project did not go before a Director's Hearing.

Commissioner Yeber asked what would happen to a subsequent business that might come in regarding the alcohol license.

Scott Lunceford, Assistant Planner clarified the alcohol use is tied to the actual paint studio. Therefore, any other business could not come in and take over the alcohol permit for that location.

Commissioner Altschul moved to: 1) deny the application.

MOTION FAILS. No second.

Chair DeLuccio moved to: 1) deny the conditional use permit without prejudice; and 2) bring back a resolution of denial.

Seconded by Commissioner Altschul.

ACTION: 1) Deny the conditional use permit without prejudice; 2) bring back a resolution of denial; and 3) Close Public Hearing Item 10.A.
Moved by Chair DeLuccio, seconded by Commissioner Altschul and passes; noting Commissioner Yeber voting NO, Vice-Chair Huebner recused and Commissioner Buckner absent.

David DeGrazia, Acting Current and Historic Preservation Planning Manager, recapped to the applicant; depending what the current use is, they are still able to open a paint studio over the counter, or with a staff approved development permit.

Vice-Chair Huebner returned to the dais at this time.

B. 8911-8913 Sunset Boulevard (Rock and Reilly's):

Antonio Castillo, Associate Planner provided an oral and visual presentation and background information as presented in the staff report dated Thursday, December 19, 2013.

He stated the applicant is requesting an amendment to an existing conditional use permit to allow the expansion of an existing bar and restaurant use into an adjacent tenant space and the creation of a 135

square-foot outdoor patio area fronting Sunset Boulevard by inseting the storefront. The request also includes a parking use permit to provide all required parking spaces for the expansion at an off-site facility.

The adjacent space is currently vacant and was previously occupied by a personal service use (psychic business).

The space currently occupied by Rock and Reilly's Irish Pub obtained a conditional use permit for a bar and coffeehouse use in 1996. Originally, the space was occupied by a retail use. Rock and Reilly's has existed at this location since 2011.

The conditional use permit currently allows for the business to be open from 11:00 a.m. to 2:00 a.m. daily. However, due to the parking availability, the expanded area will only be open from 7:30 p.m. to 2:00 a.m. daily.

The expansion will require an additional nine parking spaces, and the applicant has requested to provide all nine spaces in a parking lot located at 8919-8923 Sunset Boulevard, during non-business hours. The neighboring building is partially occupied, and the nine parking spaces are only available after 7:30 p.m.

Therefore, staff is recommending the commission consider limiting the hours of operation for the expanded area until after 7:30 p.m., until the applicant is able to secure parking spaces for the entire hours of operation.

Staff is supportive of the applicant's request.

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

Commissioner Aghaei disclosed for the record he has patronized the bar.

Chair DeLuccio opened the public hearing for Item 10.B.:

CRAIG LEY, WEST HOLLYWOOD, applicant, presented the applicant's report. He provided a history of the restaurant, and spoke regarding the floor plan layout, restrooms, parking, overall ambiance and their presence on the Sunset Strip.

Commissioner Yeber requested clarification regarding the location of the kitchen.

Commissioner Aghaei questioned if the plans have been processed through the Alcoholic Beverage Control Board. (ABC), and requested clarification regarding the location of the bar areas.

Commissioner Shink questioned where employees currently park.

Chair DeLuccio requested clarification regarding the additional parking spaces.

Antonio Castillo, Associate Planner stated the additional requested parking is intended for patrons, not employees.

BRYAN SCHRECKENGOST, WEST HOLLYWOOD, spoke in support of staff's recommendation of approval.

TODD STEADMAN, LOS ANGELES, Executive Director, Sunset Strip Business Association, spoke in support of staff's recommendation of approval.

JEANNE DOBRIN, WEST HOLLYWOOD, has concerns regarding this item. She questioned if there is disability access for bathrooms in the new addition, posted signage, and if there are any current code compliance cases. She spoke regarding excessive noise when exiting the premises, and alcohol service hours.

CRAIG LEY, WEST HOLLYWOOD, applicant, presented the applicant's rebuttal. He summarized the relationship they have with the West Hollywood Sheriff's Department, their community service efforts and regulations regarding alcohol sales and service. He reiterated they do not believe they need to have a condition regarding a 1:30 a.m. cut-off time to serve alcohol. He stated they are very good at policing themselves and are very responsible operators. He encouraged approval of the request.

ACTION: Close public hearing for Item 10.B.: **Motion carried by consensus of the Commission.**

Commissioner Altschul moved to: 1) approve staff's recommendation of approval.

Seconded by Commissioner Shink.

ACTION: 1) Approve the application; 2) Adopt Resolution No. PC 13-1060 as presented: "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, APPROVING AN AMENDMENT TO A CONDITIONAL USE PERMIT, AND APPROVAL OF A DEVELOPMENT PERMIT AND PARKING USE PERMIT FOR THE EXPANSION OF A BAR AND RESTAURANT, LOCATED AT 8911-8913 SUNSET BOULEVARD, WEST HOLLYWOOD, CALIFORNIA (ROCK AND REILLY'S IRISH PUB);" and 3) Close Public Hearing Item 10.B. **Moved by Commissioner Altschul, seconded by Commissioner Shink and passes; noting Commissioner Buckner absent.**

C. Inclusionary Housing Requirements:

Peter Noonan, Rent Stabilization and Housing Manager, provided an oral and visual presentation and background information as presented in the staff report dated Thursday, December 19, 2013.

He stated they would like to open a conversation on some proposed amendments to the city's Inclusionary Housing Program. The purpose of the City's inclusionary housing ordinance is to produce low and moderate income housing, and housing for disabled and older residents, which is integrated, compatible with and complements adjacent uses, and is located near public and commercial services.

He provided a history of the program; stating 110 inclusionary units have been completed, 78 units are now under construction, and 149 are in the pipeline. When all units are developed, the current supply will triple for a total of 337 units.

Amendments are necessary to address the following aspects of the inclusionary housing ordinance:

- The City's inclusionary housing requirement is not consistent with recent California case law because the City's code requires all new multi-family residential projects to provide inclusionary housing. When a new rental building is proposed that does not include a direct financial contribution or state density bonus (also referred to as SB 1818), the City cannot require inclusionary units to be provided (Palmer/Sixth Street Properties, L.P. v. City of Los Angeles; "Palmer"). In this case, the inclusionary requirement was found to violate the Costa-Hawkins Act, which established what is known as "vacancy decontrol", declaring that notwithstanding any other provision of law, all residential landlords may, except in specified situations, establish the initial rental rate for a dwelling or unit (Civ. Code, § 1954.53, subd. (a)).
- The inclusionary ordinance does not specify that parking along with other fees for pets and building amenities are included in the maximum rental cost.

The amendments proposed address recent case law, and clarify that parking, pet rent, and other building amenity fees are included in the maximum allowable rent.

PROPOSED AMENDMENTS

19.22.030 Affordable Units Required

Current Language

The Zoning Ordinance currently requires all multi-family housing projects and common interest developments created through the conversion of existing apartments to provide a percentage of the new residential units created to low- and moderate-income households. Paying a fee in-lieu of providing the required inclusionary housing is an option for projects with ten or fewer units.

Proposed Language

The text amendments proposed address Palmer court case, referenced previously. Palmer established that cities cannot require inclusionary units in new apartment buildings that do not receive a direct financial contribution or state density bonus from the City. When a developer, however, requests a state density bonus to construct new rental or for-sale residential units, the City will continue to require inclusionary units, since Palmer only affects the construction of new apartment buildings that do not include a state density bonus.

- The amendments do not change the City's current inclusionary requirement for condominiums and apartment projects that use the state density bonus; those projects will continue to be required to provide inclusionary units on site.
- The amendments do change the City's inclusionary requirement for apartments that do not use the state density bonus. Currently such projects would be required to provide inclusionary units. As proposed and consistent with Palmer, these projects would require payment of the Affordable Housing Fee in-lieu of providing inclusionary units on-site, regardless of the size of the project.

19.22.080 Implementation of Inclusionary Unit Provisions

Proposed Language

In addition to the revision proposed to address Palmer, a revision is proposed that would include the number of parking spaces provided for each unit in the resolution of approval required for a new multi-family building. This revision would make clear that the maximum allowable rent includes both the apartment unit and the allocated parking, thus preventing a side agreement or separate rental charge for parking.

19.22.090 Initial Sales Process of For-Sale Units

Current Language

The current title of this section addresses initial sale of units.

Proposed Language

The proposed amendments to this section include the following:

- Change in title to include “rental” and “re-sale” of units.
- Clarifies that rent includes charges for the apartment and associated parking in addition to pet rent and other charges for building amenities, and water and trash.

He stated staff’s recommendation is to open, receive testimony, and continue the public hearing to Thursday, January 16, 2014.

Chair DeLuccio stated this seems very straightforward, and commented this is simply to come into compliance with the ordinance.

Commissioner Yeber questioned the in-lieu (impact) fee and if there would be any impacts or adjustments.

Christi Hogin, Assistant City Attorney, stated the reason it is called an in-lieu fee, is because the fee was charged in-lieu of actually providing the units. The impact fee is a whole other separate entity. The city will have a consultant conduct a study in order to determine what the impact on the city’s affordable housing stock of building apartment buildings without any affordable units included in them. The amount of the impact fee will be related to the impact that is created by building these apartments without affordable units.

She clarified the city currently does not have a current impact fee.

Discussion was held regarding in-lieu and impacts fees.

Commissioner Altschul questioned if there are any other state density bonuses that the state provides, other than those triggered by SB 1818.

Peter Noonan, Rent Stabilization and Housing Manager, stated the language was specific to the state density bonus.

ACTION: 1) Continue the public hearing to Thursday, January 16, 2014.
Motion carried by consensus of the Commission, noting Commissioner Buckner absent.

11. **NEW BUSINESS.** None.
12. **UNFINISHED BUSINESS.** None.
13. **EXCLUDED CONSENT CALENDAR.** None.

14. ITEMS FROM STAFF.

A. Planning Manager's Update.

David DeGrazia, Acting Current and Historic Planning Manager, stated the Planning Commission meeting on Thursday, January 2, 2014 has been officially cancelled.

15. PUBLIC COMMENT.

JEANNE DOBRIN, WEST HOLLYWOOD commented on the decision that was made regarding alcohol serving hours for Rock and Reilly's. She stated the use runs with the land.

16. ITEMS FROM COMMISSIONERS.

Commissioner Aghaei wished everyone a Happy New Year.

Commissioner Altschul wished everyone a Happy New Year.

Vice-Chair Huebner wished everyone a safe and happy holiday.

Commissioner Yeber wished everyone a safe and happy holiday.

Commissioner Shink wished everyone a safe and happy holiday.


Chair DeLuccio wished everyone a safe and happy holiday.

- 17. ADJOURNMENT:** Noting the cancellation of the Planning Commission meeting on Thursday, January 2, 2014, the Planning Commission adjourned at 8:00 P.M. to the next regularly scheduled meeting which will be on Thursday, January 16, 2014 beginning at 6:30 P.M. until completion at West Hollywood Park Public Meeting Room – Council Chambers, 625 N. San Vicente Boulevard, West Hollywood, California. **Motion carried by consensus of the Commission.**

APPROVED BY A MOTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD ON THIS 16TH DAY OF JANUARY, 2014.


DONALD DELUCCIO, CHAIRPERSON

ATTEST:


DAVID K. GILLIG, COMMISSION SECRETARY