

SUBJECT: **ZONE TEXT AMENDMENT PROHIBITING CORPORATE RENTALS OF DWELLING UNITS**

PREPARED BY: **COMMUNITY DEVELOPMENT DEPARTMENT**

Stephanie DeWolfe, AICP, Director
John Keho, AICP, Assistant Director
Bianca Siegl, Long Range and Mobility Planning Manager
Garen G. Srapyan, Associate Planner

STATEMENT ON THE SUBJECT:

The City Council will consider amending the West Hollywood Zoning Ordinance to prohibit corporate rentals of dwelling units.

RECOMMENDATION:

Staff recommends the City Council hold the public hearing, consider all pertinent testimony, and introduce on first reading:

Ordinance No. 17-_____: **“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD AMENDING TITLE 19 OF THE WEST HOLLYWOOD MUNICIPAL CODE TO PROHIBIT CORPORATE RENTALS OF DWELLING UNITS, CITYWIDE. (ATTACHMENT A)**

BACKGROUND / ANALYSIS:

On October 21, 2015, Ordinance No. 15-985 took effect, reaffirming the City's prohibition of short-term vacation rentals. The Ordinance expressly prohibits (1) renting all or a portion of a dwelling unit for thirty (30) days or less to transient visitors and (2) advertising dwelling units for short-term rental. The Ordinance applies to existing units in West Hollywood as well as any new units constructed. The Ordinance was adopted in response to recommendations received from the City's Shared Economy Task Force, which focused primarily on vacation rentals.

Out of concern for potential impacts of other types of shorter term housing, on September 21, 2015, the City Council directed the City Attorney to prepare an ordinance amending the Zoning Code to prohibit the use of residential dwelling units for corporate housing and other similar uses involving the unaccompanied overnight lodging of individuals other than the owner or lessee (Attachment B). "Corporate housing" provides fully-furnished living accommodations to persons traveling for business purposes, which may involve rentals exceeding 30 days. Staff has been unsuccessful in finding reputable data to show the use of corporate rentals of dwelling units in West Hollywood. The City's awareness of this use has primarily been through word-of-mouth.

The intent of this proposed zone text amendment is to further clarify the City's restrictions on the use of dwelling units to include all forms of short-term transient uses, which may disrupt the stability of residential communities, present public safety challenges, and reduce the availability of affordable and market-rate housing.

Summary of Proposed Changes

The recommended amendments to the Zoning Code address the following concerns:

- Prevent corporations or businesses from leasing out and reserving one or more residential dwelling units for temporary occupancy (oftentimes these units are leased on a semi-permanent basis and remain largely unoccupied);
- Maintain a healthy supply of rent-stabilized and market-rate dwelling units; and
- Provide stability to the City's residential neighborhoods.

While the proposed changes could be more restrictive on corporations or businesses that encourage their employees to live and work in West Hollywood, it would **not** prohibit a corporation or business from providing housing for their employees by means of an employee stipend, for example. Several recently-constructed buildings offer one-to six-month leases for those who need short-term housing on an on-demand basis, and these uses would continue to remain acceptable for employees who need short-term accommodations; the goal is to ensure that dwelling units are being consistently occupied and fully utilized rather than remaining empty – in the context of a City with a high demand for available dwelling units.

The proposed zone text changes will prevent dwelling units from being reserved by a corporation or business and potentially sitting unoccupied for long periods of time when not in use by an employee.

Below is a summary of the proposed changes:

Define “Corporate Housing”

Corporate Housing will be defined as a dwelling unit that is (1) owned, leased or made available by a business or corporation for the occupancy of its employees, **AND** (2) the employee(s) do not intend to use the dwelling unit as their permanent residence or have not entered into a 1-year lease agreement.

Add a New Land Use for Corporate Housing

Add the use “Corporate Rentals” to the residential and commercial land use tables, the latter of which involves mixed-use projects, and prohibit such uses in all zones.

Conditions of Approval for New Development

For any proposed residential development projects (including mixed-use), add a condition in the Development Permit Approval to restrict corporate rentals.

Residential Condominium Projects

Add a condition to a proposed condominium projects Conditions, Covenants, and Restrictions (CC&Rs) to restrict corporate rentals.

Enforcement

As part of Title 19 of the West Hollywood Municipal Code, the prohibition of corporate rentals will be implemented through development project review and enforced by the City's Code Compliance Division. It is intended that Code Compliance will open cases on a reactive basis, in response to complaints received from the community. For short-term rentals, Code Compliance has begun being more proactive in enforcement. On July 18, 2016, Code Compliance provided a six-month update to the City Council on the City's short-term rental ban, which included adding additional staffing to effectively enforce the City's Ordinance. Similar measures may be needed to enforce the Corporate Rental prohibition.

Planning Commission Input

The proposed zone text amendments were discussed by the Long-Range Planning Subcommittee on July 21, 2016 and considered by the full Commission on December 1, 2016 (see Attachment C for Planning Commission Staff Report). The Commission engaged in a lengthy discussion and ultimately voted 6:1 to recommend denial of Resolution 15-1181 (Attachment D). The Commission expressed that the proposed amendment would discourage employees from living and working in the City, and in doing so, would also discourage walkability in the City and the economic prosperity of corporations and its employees who wish to do business in the City.

The Commission's concerns are summarized as follows:

- The proposed zone text amendment does not solve the issues identified because there is no available reliable data to show the number of dwelling units in the City of West Hollywood that are being taken off the market and reserved for corporate housing. An outright ban of corporate rental units in the City of West Hollywood without any data in regards to the extent of the problem would be premature.
- The proposed zone text amendment could be detrimental to the rental market and potentially keep dwelling units open and vacant; rather than having those units available on a short-term basis to businesses that are doing business in the City of West Hollywood. Market-rate housing units should be treated as market-rate housing and available for anyone wanting to occupy the unit at a market rate.
- The proposed zone text amendment contains a loophole. The proposed amendment would not preclude corporations from purchasing a condominium unit and making it available to its employees.
- The proposed zone text amendment would be difficult to enforce.

During the public hearing, the Commission did express interest in other variations of the proposed ordinance that they felt may avoid these issues stated above and expressed support for considering alternate proposals. These alternate proposals could include strategies such as: (1) restricting corporate rentals for rent-stabilized housing units only, so as to promote availability of these units to the intended residents in need of housing, and (2) requiring a restriction on corporate rentals to be included in the Conditions, Covenants and Restrictions for only new condominium projects.

West Hollywood Chamber of Commerce

Staff presented the proposed amendment to the West Hollywood Chamber of Commerce Government Affairs Committee on September 13, 2016. The Chamber members requested staff to look into alternatives that are less restrictive but still provide a regulatory framework around the use of dwelling units for corporate rentals. Additionally, Committee members expressed some of the benefits for allowing for corporate rentals of dwelling units, including: introducing people to the community, incentivizing corporations or businesses to be based in West Hollywood, potentially reducing traffic and contributing to a walkable neighborhood.

Public Notice

The City published a legal notice in the Beverly Press and West Hollywood Independent on January 26, 2017. In addition to the noticing required by the Municipal Code, the Planning Division noticed all West Hollywood neighborhood groups on January 26, 2017.

California Environmental Quality Act (CEQA)

The proposed text changes to the City's Zoning Code are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines, which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed text amendments reaffirm and promote the long-term tenancy of dwelling units, as those units were intended and therefore will not have a significant effect on the environment.

ALTERNATIVE RECOMMENDATION:

Direct staff to develop an alternate regulatory approach as recommended by the Planning Commission that would (1) restrict corporate rentals for rent-stabilized housing units only and (2) require a restriction on corporate rentals to be included in the Conditions, Covenants and Restrictions for only new condominium projects.

CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:

- PSG-1: Maintain the City's Unique Urban Balance with Emphasis on Residential Neighborhood Livability.

In addition, this item is compliant with the following goal(s) of the West Hollywood General Plan:

- LU-1: Maintain an urban form and land use pattern that enhances quality of life and meets the community's vision for its future.

EVALUATION PROCESSES:

N/A

COMMUNITY ENGAGEMENT:

This proposed amendment was presented to the West Hollywood Chamber of Commerce Governmental Affairs Committee (GAC). This staff report includes the feedback received from the GAC.

ENVIRONMENTAL SUSTAINABILITY AND HEALTH:

N/A

OFFICE OF PRIMARY RESPONSIBILITY:

COMMUNITY DEVELOPMENT DEPARTMENT / LONG RANGE & MOBILITY PLANNING DIVISION

FISCAL IMPACT:

None at this time.

ATTACHMENTS:

- A. Ordinance 17-
- B. Planning Commission Resolution of Denial
- C. Original September 21, 2015 City Council Staff Report
- D. December 1, 2016 Planning Commission Meeting Minutes

ORDINANCE NO. 17-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD AMENDING TITLE 19 OF THE WEST HOLLYWOOD MUNICIPAL CODE TO PROHIBIT CORPORATE RENTALS OF DWELLING UNITS, CITYWIDE.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Purpose. There is a documented shortage of housing throughout the State of California and the County of Los Angeles. Residential developments approved in the City of West Hollywood are expected to be used as residential housing, and not used for short-term or temporary occupancy. Corporate housing takes away needed housing from the City's housing stock and that is inconsistent with the City's housing policies of requiring residential dwelling units to be used as places of domicile. This ordinance is intended to implement those housing policies.

SECTION 2. A public hearing was duly noticed for the Planning Commission meeting of October 20, 2016 by publication in the Beverly Press newspaper, the West Hollywood Independent Newspaper on October 6, 2016, and required state and local agencies, and the City website and by announcement on City Channel 6 by October 7, 2015.

SECTION 3. The West Hollywood City Council properly reviewed and considered this matter at a public hearing on January 26, 2017. Public Notice of the hearing was advertised by publication in the West Hollywood Independent and Beverly Press on January 26, 2017 and by announcement on City Channel 6, as well as the City website and City Hall on January 26, 2017. Notices were mailed to all West Hollywood Neighborhood Watch groups on January 26, 2017.

SECTION 4. The zone text changes are Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines, which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed text amendments reaffirm and promote the long-term tenancy of dwelling units, as those units were intended and therefore will not have a significant effect on the environment.

SECTION 5. The West Hollywood City Council hereby finds that this Ordinance is consistent with the Goals and Policies of the General Plan, specifically Goal LU-1, which states that the City should "maintain an urban form and land use pattern that enhances the quality of life and meets the community's vision for the future. Specifically, this Ordinance is consistent with Policy LU-1.4, which states that the City should

continue to maintain regulations that “encourage preservation of existing housing and development of new housing that accommodates households that are diverse in size, type and income.” Further, this ordinance, which follows existing housing policies, does not impede the City’s ability to meet and implement its General Plan.

SECTION 6: A new land use is added to the alphabetical list of land uses in Table 2-2 of Section 19.06.030 in Chapter 19.06 of Title 19 of the West Hollywood Municipal Code to read as follows:

LAND USE ²	PERMIT REQUIRED BY ZONE				Specific Use Regulations
	R1	R2	R3	R4	
Corporate Housing	--	--	--	--	19.36.100(B) 19.48.060

SECTION 7: A new land use is added to the alphabetical list of uses in Table 2-5 of Section 19.10.030 in Chapter 19.10 of Title 19 of the West Hollywood Municipal Code to read as follows:

LAND USE ²	PERMIT REQUIRED BY ZONE						Specific Use Regulations
	CN	CC/SS P	CA	CR	PDCS P	PF ³	
Corporate Housing	--	--	--	--	--	--	19.36.100(B) 19.48.060

SECTION 8: The following new definitions are added in alphabetical order to the alphabetical list of definitions in Section 19.90.020 of Chapter 19.90 of Title 19 of the West Hollywood Municipal Code to read as follows:

Corporate housing. The temporary occupancy of any dwelling unit, by any person (1) who does not intend to use it as their domicile, or who has not entered into a written rental or lease agreement to occupy the unit for at least one year; and (2) for which the dwelling unit is owned, leased, guaranteed or made available by a business entity for occupancy by the entity’s officers, employees, consultants, vendors, or contractors.

SECTION 9: Paragraph (B) of Section 19.36.100 of Chapter 19.36 of Title 19 of the West Hollywood Municipal Code is amended to add the following new subsection 10 to read as follows:

10. Use as a Dwelling. The CC&Rs and other management documents shall contain a provision as follows: “Dwelling units within the property are intended to be used as domiciles for long-term occupancy, as reflected by the definition of ‘Dwelling Unit’ in Section 19.90.020. As such, no dwelling unit shall be used as corporate housing or short-term vacation rental.”

SECTION 10: Section 19.48.060 of Chapter 19.48 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

- A. In approving a development permit for a project containing dwelling units, the review authority shall ensure that the permit contains the following condition:
 - 1. Dwelling units within the City are intended for long-term occupancy, as reflected by the definition of Dwelling Unit in Section 19.90.020. As such, no part of any dwelling unit in the project may be used as corporate housing or short-term vacation rental. This condition is independent of the City's ban on short-term rentals and corporate housing, which also applies to all dwelling units in the City.

- B. In approving a development permit, the review authority may require alterations to proposed plans, and may impose reasonable and necessary specific design, locational, and operational conditions relating to both on- and off-site improvements, which are intended to ensure that:
 - 1. The site is physically adequate for the type, density, and intensity of development being proposed (e.g., number of employees) including provision of services (e.g., sanitation and water), public access, and the absence of physical constraints;
 - 2. The design, location, size, and operating characteristics of the proposed development are compatible with the existing and future land uses on-site and in the vicinity of the subject property;
 - 3. On- or off-site improvements (e.g., fire hydrants, streets, street lighting, traffic-control devices, etc.) are provided as reasonable and necessary to carry out the purpose and requirements of the applicable zoning district;
 - 4. The design of the proposed development maintains the scale, bulk and mass of adjacent properties within the existing neighborhood, and does not impair the integrity and character of the zoning district in which it is to be located;
 - 5. The proposed development incorporates new landscaping that complements the existing landscape and together provides opportunities for landscaped open space which contribute to a high quality visual image; and
 - 6. The establishment, maintenance, or operation of the proposed development at the location proposed does not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

PASSED, APPROVED, AND ADOPTED by the West Hollywood City Council at a regular meeting held this 6th day of February 2017, by the following vote:

AYES: Councilmember:
NOES: Councilmember:
ABSENT: Councilmember:
ABSTAIN: Councilmember:

LAUREN MEISTER, MAYOR

ATTEST:

City Clerk

RESOLUTION NO. PC 16-1181

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD RECOMMENDING TO THE CITY COUNCIL DENIAL OF AN ORDINANCE AMENDING CHAPTER 19 OF THE WEST HOLLYWOOD MUNICIPAL CODE TO PROHIBIT CORPORATE RENTALS OF DWELLING UNITS, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA.

The Planning Commission of the City of West Hollywood does hereby resolve as follows:

SECTION 1. Findings.

1. Ordinance No. 15-985 took effect on October 21, 2015, reaffirming the City's prohibition of short-term vacation rentals for thirty (30) days or less. Additionally, the Ordinance applies to existing units in the City of West Hollywood as well as any proposed new units. The Ordinance was adopted in response to recommendations received from the City's Shared Economy Task Force, which focused primarily on vacation rentals.

2. Since the adoption of Ordinance No. 15-985 in 2015, the City became aware short-term rentals in the form of Corporate housing. Corporate housing provides fully-furnished living accommodations to persons traveling for business purposes, and which may involve rentals exceeding 30 days.

3. To address these issues, the City Council directed the City Attorney to prepare an ordinance further clarifying the City's restrictions on the use of dwelling units to include all forms of short-term transient uses, which may disrupt the stability of residential communities, present public safety challenges, and reduce the availability of affordable and market-rate housing.

SECTION 2. A public hearing with Planning Commission was called and noticed in accordance with Municipal Code requirements, specifically by publication in the Beverly Press newspaper, the West Hollywood Independent Newspaper, required state and local agencies, and the City website and by announcement on City Channel 6 by October 6, 2016.

SECTION 3. The proposed text changes to the City's Zoning Code are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines, which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed text amendments address the long-term tenancy of dwelling units, as those units were intended and therefore would not have a significant effect on the environment. Nevertheless, CEQA does not apply to projects that are disapproved under 14 CCR 15270.

SECTION 4. The Planning Commission of the City of West Hollywood hereby recommends denial of Zone Text Amendment 2016-0003 prohibiting corporate rentals of dwelling units. Following the public hearing, each Commissioner expressed multiple and varying reasons for why he or she would individually vote to recommend approval, modification or denial of the proposed ordinance to the City Council. The Commission voted 6:1 to recommend denial of Resolution 16-1181. The reasons stated for denial can be summarized as follows. The proposed zone text amendment does not solve the issues identified because there is no available data to show that a significant number of dwelling units in the City of West Hollywood are being taken off the market and reserved for corporate housing. An outright ban of corporate rental units in the City of West Hollywood without any data in regards to the extent of the problem would be premature.

- The proposed zone text amendment could be detrimental to the rental market and potentially keep dwelling units open and vacant; rather than having those units available on a short-term basis to businesses that are doing business in the City of West Hollywood. Market-rate housing units should be treated as market-rate housing and available for anyone wanting to occupy the unit at a market rate.
- The proposed ordinance contains a loophole. The proposed zone text amendment would not preclude corporations from purchasing a condominium unit and making it available to its employees.
- Lastly, the proposed zone text amendment would be difficult to enforce.

For these reasons, the Planning Commission finds that the proposed zone text amendment is not consistent with the Goals and Policies of the General Plan. The proposed amendment would discourage employees from living and working in the City, and in doing so, discourage walkability in the City and the economic prosperity of corporations and its employees whom wish to do business in the City.

The Commission finds that other variations of the proposed ordinance may avoid these issues and would consider supporting alternate proposals. These alternate proposals could include such strategies as restricting corporate rentals for rent-stabilized and/or affordable housing units only, so as to promote availability of these units to the intended residents in need of housing, or to require a restriction on corporate rentals be included in the Conditions, Covenants and Restrictions for only new condominium projects.

SECTION 5. Based on the foregoing, the Planning Commission of the City of West Hollywood hereby recommends denial to the City Council of Zoning Text Amendment 2016-0003, which is attached hereto as Attachment A, to further clarify the scope of the City's prohibition against the use of dwelling units for purposes other than bona fide residential occupancy.

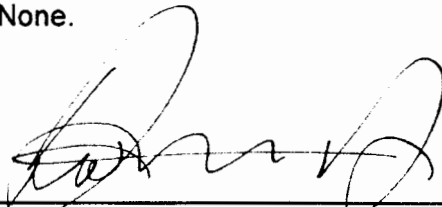
PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of West Hollywood at a regular meeting held this 1st day of December, 2016 by the following vote:

AYES: Commissioner: Altschul, DeLuccio, Huebner, Jones, Lightfoot, Vice-Chair Buckner, Chair Aghaei.

NOES: Commissioner: None.

ABSENT: Commissioner: None.

ABSTAIN: Commissioner: None.



DAVID AGHAEI, CHAIRPERSON

ATTEST:



BIANCA SIEGL, PLANNING MANAGER
LONG RANGE AND MOBILITY PLANNING

Decisions of the Planning Commission are subject to appeal in accordance with the procedures set forth in West Hollywood Municipal Code Chapter 19.76. Any action to challenge the final decision of the City of West Hollywood made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure Section §1094.6.

Attachment A

(New text indicated with underlining, deleted text with strikethrough.)

Section 1. A new land use is added to the alphabetical list of land uses in Table 2-2 of Section 19.06.030 in Chapter 19.06 of Title 19 of the West Hollywood Municipal Code to read as follows:

LAND USE ²	PERMIT REQUIRED BY ZONE				Specific Use Regulations
	R1	R2	R3	R4	
<u>Corporate Housing</u>	=	=	=	=	<u>19.36.100(B)</u> <u>19.48.060</u>

Section 2. A new land use is added to the alphabetical list of uses in Table 2-5 of Section 19.10.030 in Chapter 19.10 of Title 19 of the West Hollywood Municipal Code to read as follows:

LAND USE ²	PERMIT REQUIRED BY ZONE						Specific Use Regulations
	CN	CC/SSP	CA	CR	PDCSP	PF ³	
<u>Corporate Housing</u>	=	=	=	=	=	=	<u>19.36.100(B)</u> <u>19.48.060</u>

Section 3. The following new definitions are added in alphabetical order to the alphabetical list of definitions in Section 19.90.020 of Chapter 19.90 of Title 19 of the West Hollywood Municipal Code to read as follows:

Corporate housing. The temporary occupancy of any dwelling unit, by any person (1) who does not intend to use it as their domicile, or who has not entered into a written rental or lease agreement to occupy the unit for at least one year; and (2) for which the dwelling unit is owned, leased, guaranteed or made available by a business entity for occupancy by the entity's officers, employees, consultants, vendors, or contractors.

Section 4. Paragraph (B) of Section 19.36.100 of Chapter 19.36 of Title 19 of the West Hollywood Municipal Code is amended to add the following new subsection 10 to read as follows:

10. Use as a Dwelling. The CC&Rs and other management documents shall contain a provision as follows: "Dwelling units within the property are intended to be used as domiciles for long-term occupancy, as reflected by the definition of 'Dwelling Unit' in Section 19.90.020. As such, no dwelling unit shall be used as corporate housing or short-term vacation rental."

Section 5. Section 19.48.060 of Chapter 19.48 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

19.48.060 Conditions of Approval.

A. In approving a development permit for a project containing dwelling units, the review authority shall ensure that the permit contains the following condition:

1. Dwelling units within the City are intended for long-term occupancy, as reflected by the definition of Dwelling Unit in Section 19.90.020. As such, no part of any dwelling unit in the project may be used as corporate housing or short-term vacation rental. This condition is independent of the City's ban on short-term rentals and corporate housing, which also applies to all dwelling units in the City.

B. In approving a development permit, the review authority may require alterations to proposed plans, and may impose reasonable and necessary specific design, locational, and operational conditions relating to both on- and off-site improvements, which are intended to ensure that:

- 1.** ~~A.~~ The site is physically adequate for the type, density, and intensity of development being proposed (e.g., number of employees) including provision of services (e.g., sanitation and water), public access, and the absence of physical constraints;
- 2.** ~~B.~~ The design, location, size, and operating characteristics of the proposed development are compatible with the existing and future land uses on-site and in the vicinity of the subject property;
- 3.** ~~C.~~ On- or off-site improvements (e.g., fire hydrants, streets, street lighting, traffic-control devices, etc.) are provided as reasonable and necessary to carry out the purpose and requirements of the applicable zoning district;
- 4.** ~~D.~~ The design of the proposed development maintains the scale, bulk and mass of adjacent properties within the existing neighborhood, and does not impair the integrity and character of the zoning district in which it is to be located;
- 5.** ~~E.~~ The proposed development incorporates new landscaping that complements the existing landscape and together provides opportunities for landscaped open space which contribute to a high quality visual image; and
- 6.** ~~F.~~ The establishment, maintenance, or operation of the proposed development at the location proposed does not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

SUBJECT: REQUEST FOR ORDINANCE RESTRICTING NEW
RESIDENTIAL DEVELOPMENTS TO NON-TRANSIENT
USE

INITIATED BY: COUNCILMEMBER JOHN HEILMAN

PREPARED BY: CITY ATTORNEY
(Michael Jenkins, City Attorney)

STATEMENT ON THE SUBJECT:

The City Council will consider directing the City Attorney to prepare an ordinance amending the Zoning Code to prohibit the use of residential dwelling units for corporate housing and other similar uses involving the unaccompanied overnight lodging of individuals other than the owner (in the case of a condominium or house) or lessee (in the case of an apartment).

RECOMMENDATION:

Direct the City Attorney to prepare an ordinance amending the Zoning Code to prohibit the use of residential dwelling units for corporate housing and other similar uses involving the unaccompanied overnight lodging of individuals other than the owner (in the case of a condominium or house) or lessee (in the case of an apartment).

BACKGROUND & ANALYSIS:

On July 20, 2015, the City Council introduced on first reading an ordinance amending the Zoning Code to clarify that dwelling units may not be used as short-term vacation rentals by expressly prohibiting the rental of all or a portion of a dwelling unit for thirty (30) days or less to a transient and advertising a dwelling unit as a short-term rental. Once adopted, the City's short-term rental ban will apply to existing residential units in the City of West Hollywood as well as any proposed new units.

The ordinance banning short term rentals has some limitations that would be addressed by the proposed ordinance. First, the short-term rental ban specifically prohibits rentals for thirty (30) days or less, which addresses the most prevalent kinds of vacation rentals, but does not address longer-term vacation rentals or transient corporate housing, in which a corporate employee or guest

may be provided temporary housing or lodging. Although turnover in such circumstances is typically less frequent than that involved in short-term vacation rentals, the high turnover remains disruptive to the stability of residential communities. Further, when residential units are used for commercial activity such as vacation and corporate rentals rather than the purpose for which they were constructed, the supply of affordable and market rate housing in the City is diminished and the ability of the City to achieve its housing goals is compromised. Given the documented shortage of housing statewide, the use of housing for temporary stays is inconsistent with both State and City housing policy.

The ordinance would amend Sections 19.36.100(B) (Residential Projects – Conditions, Covenants, and Restrictions) and 19.48.060 (Conditions of Approval) of the West Hollywood Municipal Code.

CONFORMANCE WITH VISION 2020

This item is consistent with the City's *Primary Strategic Goal* to **Maintain the City's unique urban balance with emphasis on residential neighborhood livability** and is consistent with the On-going Strategic Programs of:

Promote Economic Development while Maintaining Business Vitality & Diversity and Adaptability to Future Change

General Plan Goals:

Goal ED 1.2: Seek a balance between visitor-serving and local-serving commercial activity.

EVALUATION:

N/A

ENVIRONMENTAL SUSTAINABILITY & HEALTH ANALYSIS:

N/A

OFFICE OF PRIMARY RESPONSIBILITY:

City Attorney

FISCAL IMPACT:

None at this time.

ATTACHMENT:

None.



PLANNING COMMISSION MINUTES
Regular Meeting
December 1, 2016

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

THE CITY OF WEST HOLLYWOOD HAS ADOPTED SUMMARY AND ACTION MEETING MINUTES; WHICH PROVIDE A SUMMARY OF THE ACTIONS TAKEN AND POINTS OF DISCUSSION ONLY. ADDITIONAL COMMENTS OR DISCUSSION REGARDING ANY ITEM SUMMARIZED IN THESE MINUTES MAY BE OBTAINED BY VIEWING THE ARCHIVED VIDEOS OF THE PLANNING COMMISSION MEETINGS AT www.weho.org/weho-tv/other-city-meetings

1. **CALL TO ORDER:** Chair Aghaei called the meeting of the Planning Commission to order at 6:32 P.M.
2. **PLEDGE OF ALLEGIANCE:** James Mills led the Pledge of Allegiance.
3. **ROLL CALL:**
Commissioners Present: Altschul, DeLuccio, Huebner, Jones, Lightfoot, Vice-Chair Buckner, Chair Aghaei.

Commissioners Absent: None.

Staff Present: Laurie Yelton, Associate Planner, Rachel Dimond, Senior Planner, David DeGrazia, Current and Historic Preservation Planning Manager, Lauren Langer, Acting Assistant City Attorney and David Gillig, Commission Secretary.
4. **APPROVAL OF AGENDA.**
ACTION: Approve the Planning Commission Agenda of Thursday, December 1, 2016 as presented. **Moved by Vice-Chair Buckner, seconded by Commissioner Jones and unanimously passes.**
5. **APPROVAL OF MINUTES.**
A. November 17, 2016

ACTION: Continue to Thursday, December 15, 2016. **Motion carried by consensus of the Commission.**
6. **PUBLIC COMMENT.** None.
7. **DIRECTOR'S REPORT.**
Stephanie DeWolfe, Community Development Director presented the Director's Report.

Upcoming City Council Meeting – Monday, December 5, 2016.

Norma Triangle Overlay will be presented to City Council for adoption, and the Commercial Historic Resources Survey.

There will also be a discussion of the Speakers Series regarding the Multi-Family Study sessions. Future dates are January 25, 2017, February 1, 2017, February 8, 2017, and February 15, 2017

8. ITEMS FROM COMMISSIONERS.

Commissioner Huebner officially announced his resignation from the Planning Commission. He thanked the public, staff, and fellow commissioners.

9. CONSENT CALENDAR.

A. Zone Text Amendment: Corporate Housing.

The Planning Commission directed staff to return with a resolution recommending that the City Council deny a zone text amendment prohibiting corporate rentals of dwelling units, located citywide, West Hollywood, California.

Chair Aghaei opened public comment for Item 9.A.:

MICHAEL WOJKIELEWICZ, WEST HOLLYWOOD opposes the recommendation of denial.

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

Commissioner Lightfoot clarified for the record she voted "no" recommending denial to City Council.

ACTION: 1) Adopt Resolution No. PC 16-1181 as presented: "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD RECOMMENDING TO THE CITY COUNCIL DENIAL OF AN ORDINANCE AMENDING CHAPTER 19 OF THE WEST HOLLYWOOD MUNICIPAL CODE TO PROHIBIT CORPORATE RENTALS OF DWELLING UNITS, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA." **Moved by Commissioner Jones, seconded by Commissioner Huebner and unanimously passes.**

10. PUBLIC HEARINGS.

A. 1016 N. Martel Avenue:

Laurie Yelton, Associate Planner provided a verbal and visual presentation and background information as presented in the staff report dated Thursday, December 1, 2016.

The applicant is proposing to demolish six units and construct a three-story, eleven-unit multi-family courtyard building over subterranean parking.

Also requested are three courtyard housing incentives; 1) allow a maximum of fifty percent compact parking spaces, 2) allow the building to extend a portion into the front yard setback, and 3) allow the building to extend a portion in the rear yard setback.

The following ten percent modifications are being requested: 1) reduce the entire front yard setback by ten percent, 2) reduce the entire rear yard setback by ten percent, and 3) increase the maximum average unit size from 1,500 square-feet to 1,598 square-feet.

The building qualifies for exemplary design. Concerns were raised by neighbors regarding privacy screenings, trash and recycling locations.

Draft Resolution No. PC 16-1179, Condition 8.4.: should reference “66 Green Building Points.”

Draft Resolution No. PC 16-1179, Condition 2.2.2.: should read as follows: “A projection of 8’8” into a portion of the rear yard setback on the first floor of the building (Unit D – 196 square-feet).”

Draft Resolution No. PC 16-1179, Condition 2.2.3.: should read as follows: A projection of 7’4” into a portion of the front yard setback on the first floor (Unit A – 71 square-feet, Unit K – 145 square feet) of the building.”

Draft Resolution No. PC 16-1179, Condition 7.10.: the following shall be added to the existing condition: “The large tree in the parkway along Romaine Street shall be protected in place.”

Commissioner Huebner presented the design review subcommittee report. He spoke on the improved design, stating the subcommittee was in support.

The following commissioners disclosed they spoke with the applicant’s representatives and discussed matters contained in the staff report: Commissioner Jones, Commissioner DeLuccio, Commissioner Huebner, Vice-Chair Buckner, and Chair Aghaei.

The following commissioners had no official disclosures: Commissioner Altschul and Commissioner Lightfoot.

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

JEFFREY SEYMOUR, WESTLAKE VILLAGE, applicant’s representative, presented the applicant’s report. He spoke regarding the modification and architectural design.

CHRISTIAN ROBERT, SANTA MONICA, applicant's representative, continued the applicant's report. He spoke and detailed neighborhood compatibility, landscaping, architectural styles and courtyard designs, massing, density, height, subterranean parking, front and rear yard setbacks, encroachments, window heights, internal staircases, and modifications.

Commission requested clarification regarding the internal staircases, unit square-footage, parking spaces, modifications, variances, incentives, landscaping, and aging in place units.

NOEL HYUN, LOS ANGELES, representing LINDA CASS, WEST HOLLYWOOD has concerns regarding this item. She spoke regarding landscaping, roof terraces, and windows on the northern elevation.

MICHAEL WOJKIELEWICZ, WEST HOLLYWOOD has concerns regarding this item. He spoke regarding landscaping, courtyard square-footage, and aging in place.

JAMES HART, WEST HOLLYWOOD has concerns regarding this item. He spoke regarding height, elevations, electrical connections, revenue loss, construction noise, and parking.

GERRY FLORES, WEST HOLLYWOOD has concerns regarding this item. He spoke regarding neighborhood compatibility and traffic mitigation.

LYNN RUSSELL, WEST HOLLYWOOD, opposes staff's recommendation of approval.

JEFFREY SEYMOUR, WESTLAKE VILLAGE, applicant's representative, presented the applicant's rebuttal. He spoke regarding the requested conditions, landscaping, courtyard square-footage, and stated they are willing to ensure the viability for any business abutting this property, including temporary electrical power.

CHRISTIAN ROBERT, SANTA MONICA, applicant's representative, continued the applicant's rebuttal. He spoke and clarified the removal of the current landscaping, massing, height variation and aging in place living spaces.

THE COMMISSION TOOK A FIVE (5) MINUTE RECESS TO VIEW THE MASSING MODEL AT 7:55 P.M. AND RECONVENED AT 8:00 P.M.

Commission spoke in support of the exemplary design, and detailed the noticing concerns, negotiations, courtyard square-footage and incentives, and variances.

They had concerns and discussed in detail the front and rear yard setbacks, unit square-footage, density, public hearing notifications, modifications, third story setback, street closures, and aging in place units.

Laurie Yelton, Associate Planner requested the following amendment to draft Resolution No. PC 16-1179. Condition 8.8. shall read as follows: *"Applicant shall install minimum 6' high by 2' wide in ground 24" box, landscaping privacy hedge (Oldhamii Bamboo) at planting a minimum of two feet apart along the north and east property line,"* and Condition 8.9. shall be amended as follows: *"Applicant shall maintain reduced terrace size with habitable area setback a minimum of eight feet, reduced windows with privacy frames on north elevation, and incorporate clerestory windows per the approved plans as long as they comply with other division standards including, but not limited to, Building and Safety and Fire Department requirements."*

Commissioner DeLuccio moved to: 1) approve staff's recommendation of approval with requested changes made by staff, and add the following conditions: a) work with the neighboring business to provide electrical notifications; and b) at least two units shall have a first floor bedroom and bathroom.

Seconded by Commissioner Huebner.

Lauren Langer, Acting Assistant City Attorney, provided for the record, draft Resolution No. PC 11-1179, [new] Condition 10.9., shall read as follows: *"Applicant shall provide thirty day notice to the neighbor to the east of any electrical service disruptions."*

Commissioner Lightfoot made a substitute motion: 1) approve staff's recommendations of approval with all requested changes made by staff and the original motion by Commissioner DeLuccio; except for the following three modifications; a) 10% front setback modification; b) 10% rear setback modification; and c) 10% increase in maximum unit size.

Discussion and clarification was held regarding the rear encroachment that is the courtyard incentive on the first floor. Additional clarification was requested, questioning; if the three additional modifications were denied, would the upper two stories be at the fifteen foot setback.

Staff confirmed this was accurate.

Seconded by Commissioner Altschul.

Lauren Langer, Acting Assistant City Attorney, stated the substitute motion would actually require a redesign of the project.

Discussion was held regarding three options, 1) passing a resolution and staff's recommendations where it needed to go back to design review subcommittee before permits were issued; 2) staff would be tasked with making sure they pulled in the design; or 3) continue the item.

Further discussion was held regarding the encroachments in the setbacks, square-footage of the units, and redesign of the project.

JEFFREY SEYMOUR, WESTLAKE VILLAGE, applicant's representative, stated the applicant is willing to do an initial redesign and give up the rear setback; however it would be exceedingly difficult to give up the front setback, without a major redesign of the project.

CHRISTIAN ROBERT, SANTA MONICA, applicant's representative, clarified the north eastern building would be pushed in by a foot out of the rear setback, which would not require a modification for the rear setback. The courtyard incentive for the encroachment would remain in place.

It was suggested the applicant should be given the opportunity to update the design to reflect the amended setback. If a resolution is approved, the project should be reviewed by the Urban Designer, and not returned to the Planning Commission.

Lauren Langer, Acting Assistant City Attorney, read into the record, the substitute motion on the floor: **1) approve staff's recommendations of approval with all requested changes made by staff and the original motion by Commissioner DeLuccio; 2) Delete all references to the three modifications in Condition 2.3., 3) Add language to Condition 2.6. that states: "Plans shall be modified herein to the satisfaction of the Community Development Director;" and 4) Any and all references relating to the modifications shall be removed from the Findings; Sections 5.a., 5.b., and Section 7.**

Moved by Commissioner Lightfoot, seconded by Commissioner Altschul.

MOTION FAILS.

Commissioners DeLuccio, Huebner, Jones, Vice-Chair Buckner, and Chair Aghaei voting NO.

Commissioner DeLuccio moved to: 1) approve staff's recommendation of approval with requested changes made by staff, and add the following conditions: a) work with the neighboring business to provide electrical notifications; b) at least two units shall have a first floor bedroom and bathroom; c) eliminate the rear modification; d) bring back the redesign to the Community Development Director; e) Condition 2.2.3. shall read as follows: *Increase the maximum allowable average unit size by 10% (from 1,500 square-feet to ~~1,650 square-feet~~ 1,598 square-feet;* and f) *remove all references regarding the rear yard modifications from the Findings.*

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

ACTION: 1) Approve the application; 2) Adopt Resolution No. PC 16-1179 as amended: a) Add Condition 10.9., to read as follows: *"Applicant shall provide thirty day notice to the neighbor to the east of any electrical service disruptions."* b) at least two units shall have a first floor bedroom and bathroom; c) eliminate the rear modification; d) bring back the redesign of the project to the Community Development Director; e) Condition 2.2.3. shall read as follows: *"Increase the maximum allowable average unit size by 10% (from 1,500 square-feet to ~~1,650 square-feet~~ 1,598 square-feet;"* f) remove all references regarding the rear yard modifications from the Findings; g) any minor clerical changes to be consistent with that direction, and g) all additional changes read into the record by staff: "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, CONDITIONALLY APPROVING A DEMOLITION PERMIT, DEVELOPMENT PERMIT, AND LOT LINE ADJUSTMENT FOR THE DEMOLITION OF SIX DWELLING UNITS AND THE CONSTRUCTION OF A NEW, THREE-STORY, ELEVEN-UNIT MULTI-FAMILY COURTYARD BUILDING OVER SUBTERRANEAN PARKING, LOCATED AT 1016 N. MARTEL AVENUE, WEST HOLLYWOOD, CALIFORNIA;" and 3) Close the Public Hearing for Item 10.A. **Moved by Commissioner DeLuccio, seconded by Commissioner Huebner and passes, noting Commissioner Altschul and Commissioner Lightfoot voting NO.**

Commission Secretary Gillig officially read into the record the appeal procedure for 1016 N. Martel Avenue, West Hollywood, California:

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

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

B. 8933 Santa Monica Boulevard (Bar10):

Rachel Dimond, Senior Planner provided a verbal and visual presentation and background information as presented in the staff report dated Thursday, December 1, 2016.

Applicant is requesting to allow the conversion of an existing restaurant into a nightclub, with an intensification of use for the increase in the parking required to convert a restaurant into a nightclub.

The applicant would like to change their floor plan to allow for the promotion of evening events, and to have live entertainment. They would like to retain the current operating hours of 10 a.m. to 2:00 a.m., with alcohol services ending at 1:30 a.m. Parking credits have already been obtained for the required parking.

The commission requested clarification regarding Condition 7.2.5. regarding eating, drinking and dancing. They had concerns with the removal of the official public hearing notice on the property.

The following commissioner disclosed they made a site visit; Commissioner DeLuccio.

The following commissioners had no official disclosures: Commissioner Altschul, Huebner, Jones, Lightfoot, Vice-Chair Buckner, and Chair Aghaei.

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

AXEL JORDAN, WEST HOLLYWOOD, applicant, presented the applicant's report. He spoke and detailed the early removal of the public hearing notice, the current restaurant and operating hours, and the requested nighttime activities.

The commission requested clarification of past code violations, review provisions, and questioned the applicant regarding promoters and smoking.

ARTHUR BERNSTEIN, WEST HOLLYWOOD opposes staff's recommendation of approval.

AXEL JORDAN, WEST HOLLYWOOD, applicant, presented the applicant's rebuttal. He spoke regarding his views on smoking, restaurant food service, and Sunday brunch hours.

Commission requested clarification regarding alcohol service hours, and location of smoking.

The commission commented on the additional dining options on Santa Monica Boulevard, and the navigation for small business owners regarding zoning codes..

Chair Aghaei moved to: 1) approve staff's recommendation of approval.

Seconded by Commissioner DeLuccio.

Commission requested clarification regarding outdoor activities and dancing.

Commissioner DeLuccio amended the motion: a) delete any reference to dancing; and b) six month review by the Director of Community Development.

Chair Aghaei supports the requested amendments.

Rachel Dimond, Senior Planner expanded on the requested Directors review by adding the following: *"The Director of Community Development shall review this permit at six months after conversion to a nightclub to determine whether any corrective conditions need to be imposed if proven necessary to minimize any major disturbances to nearby properties. In the even additional conditions are necessary, a modification hearing will be scheduled in accordance with the West Hollywood Municipal Code before the Planning Commission."*

ACTION: 1) Approve the application; 2) Adopt Resolution No. PC 16-1188 as amended: a) delete any reference to dancing; b) add the following condition: *"The Director of Community Development shall review this permit at six months after conversion to a nightclub to determine whether any corrective conditions need to be imposed if proven necessary to minimize any major disturbances to nearby properties. In the even additional conditions are necessary, a modification hearing will be scheduled in accordance with the West Hollywood Municipal Code before the Planning Commission;"* "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, ADOPTING A DEVELOPMENT PERMIT AND A CONDITIONAL USE PERMIT FOR THE CONVERSION OF AN EXISTING RESTAURANT TO A NIGHTCLUB, LOCATED AT 8933 SANTA MONICA BOULEVARD, WEST HOLLYWOOD, CALIFORNIA;" and 3) Close the Public Hearing for Item 10.B. **Moved by Chair Aghaei, seconded by Commissioner DeLuccio and unanimously passes.**

Commission Secretary Gillig officially read into the record the appeal procedure for 8933 Santa Monica Boulevard, West Hollywood, California:

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

11. NEW BUSINESS. None.

12. UNFINISHED BUSINESS. None.

13. EXCLUDED CONSENT CALENDAR. None.

14. ITEMS FROM STAFF.

A. Planning Manager's Update.

David DeGrazia, Current & Historic Preservation Manager provided an update on the review process and status for Catch Restaurant.

15. PUBLIC COMMENT.

MICHAEL WOJKIELEWICZ, WEST HOLLYWOOD commented on code requirements, ageing in place and accessibility issues.

16. ITEMS FROM COMMISSIONERS.

Commissioner Jones thanked outgoing Commissioner Huebner for his years of service and experience.

Commissioner DeLuccio stated staff reports and resolutions need to be looked at more closely for typos and consistency. He thanked Commissioner Huebner for his years of service and experience.

Commissioner Altschul thanked Commissioner Huebner for his years of service and experience.

Vice-Chair Buckner thanked Commissioner Huebner for his years of service and experience.

Commissioner Lightfoot thanked Commissioner Huebner for his years of service and experience.

Chair Aghaei thanked Commissioner Huebner for his years of service and experience.

Commissioner Huebner stated it has been a pleasure to be a part of the City of West Hollywood.

17. **ADJOURNMENT:** The Planning Commission adjourned at 9:55 P.M. to a regularly scheduled meeting on Thursday, December 15, 2016 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.**

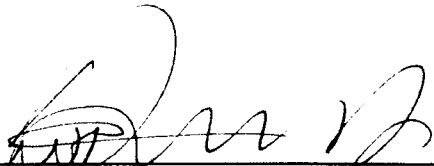
PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of West Hollywood at a regular meeting held this 19th day of January 2017 by the following vote:

AYES: Commissioner: Altschul, DeLuccio, Jones, Lightfoot, Vice-Chair Buckner, Chair Aghaei.

NOES: Commissioner: None.

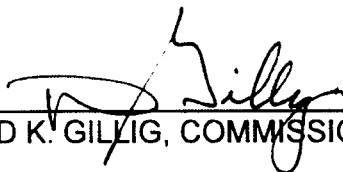
ABSENT: Commissioner: None.

ABSTAIN: Commissioner: None.



DAVID AGHAEI, CHAIRPERSON

ATTEST:



DAVID K. GILLIG, COMMISSION SECRETARY