



**PLANNING COMMISSION MINUTES**  
**Special Meeting**  
**January 29, 2009**

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

**1. CALL TO ORDER:**

Chair Altschul called the meeting of the Planning Commission to order at 6:34 P.M.

**2. PLEDGE OF ALLEGIANCE:** Sam Borelli led the Pledge of Allegiance.

**3. ROLL CALL:**

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

Commissioners Absent: None.

Staff Present: Michael Barney, Assistant Planner, Susan Healy Keene, Community Development Director, David DeGrazia, Acting Planning Manager, Michael Jenkins, City Attorney, and David Gillig, Commission Secretary.

**4. APPROVAL OF AGENDA:**

Continue Item 9.B. (8811 Santa Monica Boulevard) to Thursday, March 19, 2009.

**ACTION:** Approve the Planning Commission Agenda of Thursday, January 29, 2009 as amended. **Moved by Commissioner Hamaker, seconded by Vice-Chair DeLuccio and unanimously carried.**

**5. APPROVAL OF MINUTES.**

**A. January 15, 2009**

**ACTION:** Approve the Planning Commission Minutes of Thursday, January 15, 2009 as presented. **Moved by Commissioner Bernstein, seconded by Vice-Chair DeLuccio and unanimously carried; notating the abstention of Commissioner Hamaker.**

**6. PUBLIC COMMENT.**

JEANNE DOBRIN, WEST HOLLYWOOD, commented on the minutes of Thursday, January 15, 2009, regarding her [favorable] comments about the proposed hotel project located 622-633 N. La Peer Drive, West Hollywood, California. She spoke on women's voting rights.

LAUREN MEISTER, WEST HOLLYWOOD, commented on bars and clubs remaining open after-hours.

SAM BORELLI, WEST HOLLYWOOD, Public Safety Commissioner, spoke regarding vehicle burglary and recommended precautions regarding personal safety.

**7. ITEMS FROM COMMISSIONERS.**

Commissioner Hamaker informed the community about the power outage on the eastside of West Hollywood. She encouraged everyone to be prepared for power outages and earthquakes.

Commissioner Guardarrama spoke regarding securing your home.

**ACTION:** Cancel the Planning Commission meeting on Thursday, March 5, 2009. **Moved by Chair Altschul and unanimously carried.**

**8. CONSENT CALENDAR.** None.

**9. PUBLIC HEARINGS.**

**A. 9015 Sunset Boulevard.**

**Billboard Permit 2008-002:**

Continued from Thursday, December 4, 2008. Appellant is requesting the Planning Commission overturn the Community Development Department's decision to void Billboard Permit 2008-002, thereby allowing the existing sign to be replaced with a larger billboard.

**[VERBATIM TRANSCRIPTION]**

*Provided and certified by Written Communications, Inc.*

**Altschul:** *Public Hearings, B has been continued, so that leaves us with A. Billboard Permit 2008-2, the applicant is Ace Outdoor Advertising and the property is located at 9015 Sunset Boulevard. Michael Barney will give the staff report. Hello, Michael.*

**Barney:** *Thank you Chair, Commissioners and good evening. The appellant, Ace Outdoor Advertising, is requesting that the Planning Commission overturn the Community Development Department's decision to void Permit 008-002. This continuance is from the December 4, 2008 Planning Commission meeting after the appellant submitted an additional rebuttal that the Commission determined needed to be reviewed and responded to at this hearing tonight. So to summarize, on May 19<sup>th</sup>, 2008, this, the City erroneously granted Ace Outdoor Advertising a permit to replace and reposition an existing sign above the Rainbow Bar & Grill. After the permit was approved, the appellant submitted a letter to the City requesting an Amendment to the permit for additional height. Based on that letter, staff undertook additional research and determined that not only was the sign not eligible for additional height but it was in fact not eligible for replacement or enlargement, as it is not an actual billboard per the Sunset Specific Plan. Consequently, on October 2, 2008, staff sent a letter to the appellant voiding the permit. The appellant*

subsequently filed an appeal. Again, the questions before the Commission tonight are is the sign eligible for replacement pursuant to the City's regulations and if so, can the sign be enlarged. First I will address the eligibility of replacement for the sign. The zoning ordinance states that standard billboards may be approved only within the Sunset Specific Plan, Zoning District at locations identified in the City's 1996 Sunset Boulevard Billboard Inventory for existing billboards. This inventory is the only inventory to determine eligibility for billboards. Later, in 2004, a citywide signage survey was created. This survey was created to catalog all existing off-site advertising in the City regardless of legality and was used, was to be used for in-house use only. The 2004 signage survey was never meant to replace the 1996 billboard inventory as it relates to billboard replacement. In 2008, another survey was conducted for the July 21, 2008 City Council Meeting to highlight all signage Citywide regardless of legality. And again, was not meant to replace the 1996 billboard inventory. The inventory which is referenced in the Zoning Ordinance is the 1996 inventory and it was the inventory that existed when the Zoning Ordinance was adopted in 2001. And because the signage at the Rainbow Bar & Grill is not listed as a billboard in the 1996 billboard inventory, the signage is not a billboard and not eligible for enlargement, replacement or repositioning. If the Commission determines that the sign is a billboard and is eligible for replacement, it is our recommendation that the Commission agree with the City Attorney's letter as stated in previous Exhibit D, it may only be replaced by a sign that is the same height and dimension as the existing sign. Thank you.

**Altschul:** Thank you. Are there any questions of Michael at this time? Hearing none, we'll call on the Applicant, Roger Holt.

**Holt:** Good evening Honorable Commissioners. I'm actually not the applicant, I represent...did I turn this off, oh. I represent the applicant. I'm with the Greenberg Lusk Law Firm at 1900 Avenue of the Stars in Century City. With me tonight is Mr. Andrew Blansich. He is an executive with Ace Outdoor Advertising and in fact is Ace's heart and soul.

**Dobrin:** [Inaudible]

**Altschul:** He stated it I believe. But in case you didn't, would you do it again?

**Holt:** Roger Holt, my city of residence is Los Angeles, California.

**Altschul:** Thank you. Start his time over.

**Holt:** Thank you. Honorable Commissioners, Ace Outdoor Advertising is not a huge remote faceless outdoor advertising company such as those the City typically deals with. Ace is a small enterprise working very hard to establish a presence in this City along the Sunset Strip and to be a productive and welcome participant in the life of the City. For reasons I will go over in the next several minutes, we implore you to come to a decision tonight, either reinstate Ace's billboard permit or deny our appeal so Ace can move on. Simply put, the issue here is one of fundamental fairness. Let me show you why. In early 2008, Ace applied for a permit to replace an existing 9-foot by 16-foot, two-sided roof mounted billboard located at 9015 Sunset Boulevard. Ace had at the time it prepared its application for the subject permit and still has a straightforward position as to why it should be granted the replacement permit. Its position is as follows: The City's Zoning Code provides that all existing billboards within the Sunset Specific Plan Zoning District may be replaced including and "non-conforming signs in the Sunset Specific Plan." The Sunset Specific Plan defines a billboard as "a large, that is large, off-site advertising sign with minimum dimensions of 12-feet by 20-feet." You'll find that definition at Page 261 of the Plan. Based on this definition of a billboard, Ace assumed that a billboard of dimensions smaller than 12x20, like the 9015 billboard, must be a small billboard. Ace

*assumed the 9015 billboard is substandard in size and is a legal non-conforming existing billboard. The billboard design standards contained in the Sunset Specific Plan at Page 137 state the following: "Small billboards are not encouraged" and "billboard size should use the industry standard of 14 feet high and 48 feet wide as a guideline." Therefore, Ace assumed the City would permit a billboard substandard in size, such as 9015 Sunset to be replaced by a 14x48 billboard, the size specified in the Plan. Sure enough, on May 19, 2008, the City approved Ace's request for a replacement billboard at 9015 and issued the subject Billboard Permit 2008-002. Subsequently, in reliance on that permit over the next 135 days Ace expended considerable effort and money in preparation to pull a building permit for the replacement billboard. Ace had a full engineering study conducted, and paid for a geotechnical study to assure the structural integrity of ground underneath the structure to support the replacement billboard. However, on the 136<sup>th</sup> day following issuance of Billboard Permit 2008-002, the City sent its letter of October 2 revoking the permit. Ace then was required to retain our law firm to prepare and file the appeal now pending before you. Note carefully, the grounds stated that is stated by the City 136 days after issuance of the permit for revoking Ace's permit. And I'm quoting now from there, the City's October 2 letter. "The subject billboard is not identified, not identified in the inventory of existing billboards and is therefore ineligible for replacement." At the time, this seemed like a straightforward albeit incorrect basis for revoking the permit. Since the October 2 revocation, another 120 days have passed while this appeal has been pending. In addition to the expenses associated with the previously mentioned engineering and geotechnical studies, Ace has had to pay my firm a substantial amount of money to mount and persevere in this appeal. Compared to the ground for denial stated in the City's October 2 letter, as of today the articulated rationale of the City has changed dramatically. What is the ground upon which City staff now relies to urge denial of this appeal? That the roof mounted billboard at 9015 Sunset is in fact listed in the 1996 billboard inventory, however, although the billboard still is mounted on the roof of 9015 Sunset and has been there for decades, the City's position is now that the billboard described in the inventory as located at 9021, that's 9021 Sunset and described as "small pole signs" is in fact the 9015 Sunset billboard. So let's take a step back together. How can the same billboard simultaneously be both on the inventory and not on the inventory? How can a billboard in fact be a roof mounted two-sided billboard at one street address and at the same time be as described in the same inventory as a small, as small pole signs at a different street address describing property under different ownership. Many more strange contortions of justification to deny the permit have been asserted by City staff in the last 120 days. Let me cite one more example. Staff places much reliance on the fact that from their point of view the 9015 billboard appears under the non-qualifying category in the 1996 inventory. According to staff, this is the only inventory which counts, according to the words of the Specific Plan. Yet, without any explanation whatsoever, staff chooses to completely ignore the express words of the billboard design standards which appear in the previous page, in the same Specific Plan. As I already mentioned, those words discourage small signs and indicate a strong preference for replacement sign to be 14x48. To adopt staff's interpretation is to act as if these words, the billboard design standards that I've quoted in the Specific Plan simply do not exist. In 2002, when the City Council revised the offsite billboard provisions of the Zoning Code, if they meant to delete the strong preference for 14x48 standard size billboards to replace a non-conforming substandard billboard such as that located at 9015, as a matter of law they should have said so. However, the City Council could have, but did not revise the Specific Plan in 2002 in this matter. So this is not a mere question of interpretation. Staff can't now rewrite the SSP, Sunset Specific Plan as they seek to do in this proceeding. And let me cite to you two other provisions which bear on this. In the Zoning Code, the very same Zoning Code with respect to Specific Plan, Section 190302D2, it says, in the event of any conflict between the requirements of this Zoning Ordinance and standards, standards like billboard design standards, adopted as part of any Specific Plan, the requirements of the Specific Plan shall control. The Specific Plan shall control, not the Zoning Code. Moreover in the*

*governing law, the statutory law that creates Specific Plans in California with reference to Government Code Section 65455, "No zoning ordinance may be adopted or amended within an area covered by a Specific Plan, read Sunset Specific Plan, unless it is consistent with the adopted Specific Plan." Now I was at a UCLA Conference last week and I noted a couple of your names as signing up for that Land Use Conference and I must tell you, I don't know if you were there, I was there, that the issue of consistency was given particular attention by the speakers. I would maintain that the interpretation that staff is arguing for would mean that the 2002 enactment of the zoning code is legally inconsistent with the Specific Plan which was previously adopted and still is in force. I will conclude with the following points. I respectfully submit that the unconscionable and unfair treatment of my client at the hands of the City with regard to the 9015 billboard permit is obvious. The expense, the time, the delay, it's just unconscionable. We've also maintained and we've heard no evidence to the contrary that this is a unique set of facts and circumstances to grant, to reinstate our permit will have no adverse effect, create no adverse precedent for any other site within this Sunset Specific Plan area. Third, if the integrity of words in general and the Sunset Specific Plan in particular mean anything, I'm almost done, 30 more seconds please, we submit you must...*

**Altschul:** *Thirty seconds.*

**Holt:** *...reinstate the billboard permit 2008-002. However, if you are not disposed to reinstate the permit tonight, please deny our appeal tonight. My client did not want or ask for this fight, let's not prolong this unfair and unfortunate episode any further. Thank you for your consideration.*

**Altschul:** *Thank you, are there any questions of the applicant? Donald?*

**DeLuccio:** *I have a couple of questions. One, you mentioned that Ace Outdoor is a small firm. I'm just curious, how many facings do you have?*

**Holt:** *Facings?*

**DeLuccio:** *Billboards. Billboards.*

**Bilanzich:** *Billboards, we currently have two faces on Sunset. We are taking over two more at 8901 Sunset, the Whiskey A Go Go and then we're in negotiations on four more.*

**DeLuccio:** *And I have another question as clarification and then I have a question of staff. About the time of staff's reversal of the decision to grant the 14x48 billboard, did you, did you request a larger size than the 14x48 at any time?*

**Bilanzich:** *No.*

**DeLuccio:** *Very recently, about a 60-foot?*

**Bilanzich:** *No.*

**DeLuccio:** *No? Okay. Thank you. And then question for staff would be, how did you come up with the 12x24 criteria...*

**Dobrin:** *[Inaudible]*

**Altschul:** *Who, Mr. DeLuccio?*

**DeLuccio:** No, I think she's speaking to the Applicant. How did you come up with the 12x, how did the 12x24...Ms. Dobrin, are you speaking about me or the Applicant, if you can even hear me. I have a question for staff. How did we come up with the 12x24? How was it 12x24, not 9x16 as the minimum requirement for non-qualifying signs?

**Bernstein:** I think it's 12x20.

**DeLuccio:** Well, it's 12x20. Well, how would you come up with that 12x20? I'm not clear. Because that's not even a standard industry size.

**Barney:** Well, it's in the, it's stated in the Sunset Specific Plan.

**DeLuccio:** I understand that, but no, nobody has any memory of how that...maybe you don't have the institutional memory of how we determined. I wasn't here yet. I don't know if John was barely here at the time. How did we come up with a 12x20 and not taking into consideration for example whether we acknowledged that the 9x16 was on the site of, of the...at this other restaurant site, whatever, you know, how did we...why would that matter? How come it wasn't 9x16 for example if that was like one of the smaller sizes around? Because I think the intent was to come up with a size that would go into the Specific Plan in the event that an applicant would come forward to want to make a change to a sign. So I'm not clear where this number would come up with? Because it's not, actually it's not a standard industry size.

**Keene:** We're checking the Zone Ordinance.

**DeLuccio:** Okay, thank you.

**Keene:** It's actually the language in here. Commissioner DeLuccio.

**DeLuccio:** I know what the language reads. I was wondering if anybody had an institutional knowledge of how you would come up with...

**Keene:** The actual numbers were selected?

**DeLuccio:** Yeah, how would you come up with an arbitrary number of 12x20, for example.

**Keene:** It's...there's range of numbers that are provided but I don't know how that actual range was created.

**DeLuccio:** Yeah, I understand there was a range of numbers based on the inventory.

**Altschul:** Well, I think that, certainly the rationale for coming up with the numbers wouldn't be stated in the Code itself. And the only person sitting at that table that was there at the time I believe would be Mr. Jenkins.

**Jenkins:** I'm not sure that this is going to answer Donald your question because although the Chair is correct that I was here, I don't have any recollection of the reasoning, but I can tell you that the, the definition in the Zoning Ordinance and I believe that it has been the same for a long time, says an offsite sign with minimum dimensions of 12 feet by 20 feet and maximum dimensions of 20 feet by 60 feet. That's the definition of a billboard, so it's a range. It's a minimum and a maximum. I'm going to assume that that was...

**DeLuccio:** *No, I understand. I understand.*

**Jenkins:** *...selected based on what people considered to be a standard size for a billboard.*

**DeLuccio:** *Yeah, I was just kind of surprised because there was a 9x16 around at that time and, and based on that, I was curious why it wasn't, you know, a different range, but thank you for trying to answer that. I appreciate it.*

**Altschul:** *Any other questions of staff at this time? David are there any speakers? Well, then there's really no need really for any rebuttal, unless you want to take a minute and add anything else Mr. Holt? All right. We have a speaker. Jeanne Dobrin.*

**Dobrin:** *Jeanne Dobrin, resident of West Hollywood. I am listening to what Mr. Holt said and the rest of the speakers. As far as I'm concerned, a small company which he bought out is struggling or so on, they have to obey the same law and the same rules as a large company. That's, that has no merit to speak of. This was an onsite advertising sign. It was not a billboard and it was not in the previous survey listed as a billboard. Mr. Barney has done a tremendous job in researching this particular case. Yes, the replacement permit in 2008 was granted. It was not sufficiently and thoroughly researched. That goes without saying. But Ace billboard company got greedy for more, as did of course the owner of the property who gets a lot of money and don't forget this was a sign for onsite, not offsite, and it wasn't a billboard and they opened the case again because they got greedy, ergo we have this splendid report and the recommendation today, therefore. I support the staff mandate for, can't read my handwriting...I can't read it. This appeal attempt is not primarily focused or precisely focused on the case despite a lot of quotes by Mr. Holt and I do support the staff recommendation and I feel that the City has done a tremendous job here and Ace Advertising has come to the party too late and opened up the case and caused themselves this little problem. Thank you.*

**Altschul:** *Thank you. Are there any other speakers? Mr. Holt you have five, up to five minutes for rebuttal.*

**Holt:** *Thank you, Honorable Chairman. I just want to clarify that the evidence in the record makes abundantly clear that the sign that, for which we are seeking reinstatement of the permit is always been an offsite sign. There's no, there should be no confusion. This has always been an offsite sign.*

**Altschul:** *Thank you. There being no further speakers, that'll conclude the public testimony portion of the public hearing. Discussion. Donald?*

**DeLuccio:** *I don't know. I'm in a quandary. I'm just in a kind of, don't know what to say about this. I really feel like staff did drop the ball early on by issuing a permit for a 14x48 billboard and that this...and I, and I still don't understand why it was not part of the original inventory as a 9x16 sign at least to help establish the criteria range that went into the zoning ordinance. I really feel this evening that we should grant something to this applicant. Be it, a 12x24 for example or, or maybe even reinstate the 14x48 that was, that originally was granted to them and as a result we're here this evening discussing. So I just want to throw that out for some discussion perhaps.*

**Altschul:** *Alan?*

**Bernstein:** I'm struck by the fact that 8240, which was also in the '96 inventory, considered a non-qualifying sign was allowed to replace at the same size. So it seems as though there is a precedent for this limited number of non-qualifying signs listed on the inventory to do replacement and if we are allow, to allow a replacement, it seems to me that based on the Specific Plan's desire to have signs bigger than this, we should upgrade it to at least what would qualify as a minimal billboard to fit in with the plan. So, those are the two facts that struck me. I'm not entirely comfortable with going up to, to the 14x48.

**DeLuccio:** What's the minimum in the ordinance again? Is it 12x20? Is it 12x20?

**Bernstein:** I have a question, what is the practical difference between 12x20 and 12x24? Is one an industry standard and one not an industry standard or are they both non-standard sizes for billboards?

**Barney:** It is my understanding that the standard billboard size is 14x48.

**Hamaker:** Say that again, 14?

**Barney:** Fourteen, but that is through my discussion with people that work in the billboard industry.

**Bernstein:** But when 8240 was replaced, it stayed at, at 12x24 according to this supplemental letter dated January 27<sup>th</sup> that we received.

**Barney:** That is correct. It was listed as a non-qualifying sign and then in 1991 when an application came in for its replacement, the existing sign already met the minimum dimensions of the definition of a billboard.

**Bernstein:** In '91 or 2001?

**Barney:** I believe it was in...I'd have to look that up again, excuse me.

**Altschul:** Well, I think that, like Donald, it's unfortunate that the permit was issued but, you know, I don't believe that the benefit of a mistake in these proportions is something that the applicant can just glom onto. We had another situation several years ago I believe where there was a mistake, a scrutiner's error in whether or not a particular location was in target site four with respect to signs and somebody filed an application for a sign claiming that it was in target site four when in fact it actually wasn't. This whole routine played itself out and in fact the sign was denied in the end, which I think this one should be also. As I say, it is unfortunate and I would certainly if the matter ends up being denied, if the applicant's fee have not been refunded, that they be refunded but you know, it's kind of sophistry to assume just because you're not big enough to play in the game, that you get to play in the game anyway, so if you're not the standard size, oh, I'm not the standard size, so therefore I get to increase myself to the standard size so I can have the benefit of the economics of this thing. So I would recommend denial of this appeal and upholding the staff's recommendation. Sue?

**Buckner:** Yes, I'm sort of new on the street here, but I had some very strong feelings about it. I read this very carefully. going over and over it many times and I feel it's very unfortunate that it was, excuse me, that it was, that originally the staff granted them the permit and that a considerable amount of time passed before it was denied or there was some kind of correction made and I think that there was some detrimental reliance, I don't know how to, if the Commission decides that they are going to deny this appeal then I don't know how, there must be some way to either like you say refund the application fee or somehow to make some kind of amends for the error that was done by our own

department. But I don't think it's always a good idea to comp...make these more complex or more...compound a mistake by doing another mistake. So, I'm still toying with this. I'm interesting in hearing what the other Commissioners are saying on this.

**DeLuccio:** I'd like to make a motion at this point, if I may. Can I make a motion? Actually, I would like to make a motion because I know one option that staff did throw out that if we were this evening to, to grant this permit, to grant this as a 9x16, but the zoning reads that the 12x20 is the minimum size? So I would grant, make a motion that we, that we, this is on appeal here I guess so we're reversing the decision of the Director, is that what we're doing this evening? It's on appeal. I recommend that we approve a 12 foot by 24 foot bulletin replacement for this site. That would be my motion.

**Altschul:** Not bulletin, you mean billboard.

**DeLuccio:** Billboard. That would be my motion.

**Altschul:** Is there a second?

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

**Altschul:** Second. Well, it was joint obviously.

**DeLuccio:** And the reason I'm making the motion is I think...I'm making a motion because I feel that at this point, we need to move this along. We need to make a decision this evening and if it's, if we grant something and the applicant is not happy, they can take it on to Council.

**Jenkins:** Chairman Altschul, I just want to make one brief observation in response to Commissioner Buckner's comment. And it's just a very small observation, but it had to do with the detrimental reliance issue. I just want to note that the permit in question was approved on May 19<sup>th</sup> and on July 23<sup>rd</sup> I sent a letter to the Applicant's attorney indicating that as I read the ordinance, the sign, whatever you want to call it, because I did not address the issue as to what, is it a billboard, is it not a billboard, I only addressed the zoning code, but I indicated that the sign could not be enlarged. It could not be replaced with a larger sign. And that was on July 23<sup>rd</sup> and that was two months after the permit was issued. Now, I concur that it took an unnecessarily long period of time for the permit to be voided, but as of July 23<sup>rd</sup>, just 60 days after the permit was issued, the appellant was aware that there was a problem with this and that I at least was taking the position that the code did not allow the replacement with a larger sign. So I don't know if that goes to the issue of detriment or reliance but I just thought I'd make the observation.

**Buckner:** So would your position right now, Mr. Jenkins, be that the proposed motion where we're considering permitting a larger sign would be another mistake? Because your position is that you can't replace it with a larger sign. Now we're suggesting that maybe perhaps we would replace it with a larger sign. What's the position on that?

**Jenkins:** Well, the motion is, the motion is inconsistent with my interpretation of the code. As you undoubtedly have read in your packet, Mr. Holt has a different interpretation of the code. Under my interpretation of the code, it would not be permissible. You'd have to grant a variance. Under his interpretation of the code, you could, but I don't see the inconsistency between the Specific Plan and the Zoning Ordinance that he argues, because as I see the Specific Plan, I see it as, number one, not being mandatory in terms but being encouraging and second, that it...I read it as applying only to billboards that are otherwise legally established and if the billboard, it cannot be legally replaced, then the preference expressed for a larger billboard simply has no application. And consequently, I do not see the inconsistency between the SSP and the zoning ordinance to the extent that the zoning ordinance says very clearly that undersized signs cannot be enlarged and, and the....

**Buckner:** *And they can't be replaced either.*

**Jenkins:** *Well, right. Well that's a separate issue but the section that I'm referring to says that, that they cannot be enlarged, must be replaced in exactly the same configuration as the existing, assuming it can be replaced. That's a separate issue and as I say, I didn't address that issue in my letter, but so the question is, is that inconsistent with the Sunset Specific Plan which says there's a preference for larger billboards. And I don't see the inconsistency but I mean I understand Mr. Holt's argument, I just don't, I just don't agree with that.*

**Altschul:** *Right, and I agree with Mr. Jenkins' observation that a preference for larger billboards doesn't particularly, doesn't in any way give an applicant or give a property owner or give a billboard company the right to say, oh well, if you have a preference for larger billboards, let's make, let's just go make a larger billboard. And that's the kind of self help I think that is, is ludicrous. Joe?*

**Guardarrama:** *I agree with the City Attorney as well and I was wondering if the maker and the person who seconded the motion would be open to amending it to reduce the replacement of the sign to the smaller size as suggested by the City Attorney. The reason I ask that is because I feel sort of unsettled by the fact that there was a permit granted and then revoked, but at the same time we have to act within the confines of our Code and what is appropriate. They have a sign on this property, it is of a certain size and if they'd like to replace it, you know, replace it with the same size.*

**DeLuccio:** *I'm just...yeah. I....*

**Guardarrama:** *Perhaps if they're going to appeal it, let the Council deal with it.*

**Hamaker:** *I actually will withdraw my second. So...*

**Altschul:** *Is there anyone else that wishes to second?*

**Hamaker:** *...I, I...if someone wants to make another motion to clarify it.*

**Altschul:** *Second having been withdrawn, is there anyone else that would like to second the motion? Hearing none, is there an alternate motion? I will make an alternate motion. I move we adopt the staff's recommendation and deny the appeal. Is there a second?*

**DeLuccio:** *I'll just make a motion that we grant the 9 by....*

**Altschul:** *Wait, let's do the process. Hearing no second, is there an alternate motion?*

**DeLuccio:** *I'll just, we'll just, I'll just make a motion here that we go with the 9, we grant the 9x16 and that's what they have up there currently.*

**Altschul:** *Is there a second?*

**Guardarrama:** *Second.*

**DeLuccio:** *And the reason I, I just want to say one thing. I actually, I feel that they were slighted in the beginning, overlooked, that this should have been taken into consideration when the inventory was done back in '96 and it should have been part of the inventory and I think if it had been part of the inventory, the minimum could have been 9x16 instead of 12x20. 12x20 is just an arbitrary number in my mind. I think it was just, the way I think staff came up with 12x20 at the time was looking at all the boards that did qualify or, in the inventory and this one was slighted and it wasn't...it was called non-qualifying, it wasn't part of the inventory itself and that's why I think they came up with 12x20 and that's why I wanted to raise, why, that's why I wanted to bring this one up to the minimum if we were going to grant it this evening, but I really don't see a consensus on the Commission for that, so I'll, I'll go with the 9x16.*

**Altschul:** *The motion at the present is to grant them a replacement 9x16, is there a second?*

**DeLuccio:** *Joseph seconded it.*

**Guardarrama:** *I seconded it.*

**Altschul:** *All right. Is there any further discussion?*

**Bernstein:** *Yes, Mr. Jenkins as one of the non-attorneys on the Commission, I'm confused and perhaps you can help me understand. I understand the preference for not increasing the size of the billboard, but I also understand that the Sunset Specific Plan seems fairly clear that they don't want 9x16 signs and it seems clear from a layman's perspective that they want larger signs which are called different things, so how, how do we best reconcile what appears to be two different driving desires of the code?*

**Jenkins:** *Well, Commissioner the...as I read it, the preference expressed in the Specific Plan presupposes that the sign may be legally replaced at the preferred size. If it can, fine, and there are circumstances where signs are permitted either new or to be replaced and of course with a new sign which is only allowed in one of the target sites in conjunction with new development, then there's no question that there, the preference is that the sign be larger. But it presupposes that the sign can legally be replaced and so if the sign can't be legally replaced then the preference is irrelevant. I mean it doesn't come into play I think is my point and I was struck by, and this is what I put in my letter, I was struck by the provisions of 1934080F4 which says that existing billboards and support structures may be replaced provided the dimensions of the billboard are not increased. And that was in mandatory terms in the zoning ordinance and as I say, I would see it as a direct conflict if the SSP said something in mandatory terms the exact opposite, that non-conforming size billboards, or billboards that are existing or whatever, however you want to call them, may be replaced at the preferred size or, or shall be replaced at the preferred size, but it doesn't. The SSP as its been quoted accurately says, small signs are discouraged. There's a preference for larger signs. But in reconciling that with this language from the zoning ordinance, I was, I was struck by the mandatory language in the zoning ordinance and I think that it is...I think that the Commission's mixed feelings about this case not only are justified by the factual circumstances as to how this permit was issued and all of that has ensued, but also by the language in the zoning ordinance, the Specific Plan, the inventory, all of which have obviously created, generated a lot of opinions about how to interpret all of this stuff and, and unfortunately it may not be as entirely straightforward as would be ideal. But that's how I, that's how I harmonize the two. I interpret the SSP language as expressing a preference for a more standard size, what we understand to be a standard sized billboard in those circumstances when a billboard is otherwise permitted, either as new or as a replacement and I just found it difficult to get past the language in the zoning ordinance.*

**Bernstein:** Okay.

**Altschul:** Any other comments or questions? Marc?

**Yeber:** Yeah, I have a couple. Well, first of all, isn't it correct though in general, I was troubled with this application. I, I...it's unfortunate that the mistakes were made on part of the staff and the rescinding of the permit, but I was also...the one thing that was always in the back of my mind with City policy in general is that I've come to understand that it's always incumbent on the applicant to understand the zoning law. I know if on the Building and Safety side, if I submit something that's in conflict with the State, even though the City approves it, it's...I'm still required to follow the regulation as it's supposed to be, whether it's a state law or a local law and so forth, so that was always troubling me that there...it's unfortunate this happened, but maybe some due diligence could have been on the part of the applicant to better understand what was going on here. The second thing is, if...I know the motion has been withdrawn, the previous motion by Commissioner DeLuccio, if the Commission, if the applicant had returned with a variance, would that have been, you know, an application for a larger sign with, under the guise of a variance, I was wondering how that would play out and if that might be an acceptable medium, you know, for that. But there's a motion on the table and I'm, I'm fine with supporting that. I hope that after this that somehow we can clear up some of the misunderstanding that exists between the inventories, the SSP, the zoning ordinance, but right now I'm in support of the motion that's on the table.

**Altschul:** Any further comments?

**DeLuccio:** Yes, I do. Can we have, can staff address the variance question that Marc asked? I'd be interested in knowing that before we took a vote.

**Jenkins:** I think in...Commissioner, in response to that I think I would just say that as you know because you've had many variance applications come before you, you have to make certain findings. And so you would have to be able to make the finding that there were unusual circumstances relating to this, the physical environment that created a special circumstance that, that caused this property to suffer different than properties that are similarly situated. I don't know that you could make that finding, but that would be the burden of the applicant to demonstrate that you could make the variance finding and then it would be up to you to decide if you could. You've had two variances that I can think of just in the last year, one which you granted and one which you denied, where you were pressed to...I mean, you've had to make findings and you did. One, one way, the other the other way, so we really couldn't prejudge it. I can just tell you that you have to make the variance findings.

**Altschul:** Thank you. If there are no other comments, we will take a vote and the motion as I understand it is to direct staff to come back with a resolution granting the appeal in part and denying the appeal in part and granting the appeal in that if the applicant, the applicant/appellant be allowed a replacement billboard of 9x16 and that it be denied in that the application not be allowed in a larger dimension. Is that correct? All right. Roll call David.

**Gillig:** Vice Chair DeLuccio?

**DeLuccio:** Yes.

**Gillig:** Commissioner Guardarrama?

**Guardarrama:** Yes.

**Gillig:** Commissioner Yeber?

**Yeber:** Yes.

**Gillig:** Commissioner Hamaker?

**Hamaker:** Aye.

**Gillig:** Commissioner Buckner?

**Buckner:** Aye.

**Gillig:** Commissioner Bernstein?

**Bernstein:** Aye.

**Gillig:** Chair Altschul?

**Altschul:** No.

**Gillig:** Motion carries, six ayes, one no.

**Altschul:** Thank you. And would you state the appeal process and the time periods David.

**Gillig:** The resolution the Planning Commission just approved memorializes the Commission's final action on this matter.

**Altschul:** No, it doesn't. There's a resolution to come back.

**Keene:** Yeah, we'll return with resolution that...

**Altschul:** That's right, so the appeal time will not start until...you'll return next meeting with the resolution. The next meeting is next week?

**Keene:** We don't...we could do...we could possibly do an amended agenda and return next week but if not at next week's meeting, the following.

**Altschul:** Are you more comfortable with doing...with not doing an amended agenda?

**Keene:** We'll do an amended agenda and we'll bring it back at next week's meeting.

**Altschul:** So that at next week's meeting on February the 5<sup>th</sup>, there will be an amended resolution. There will be a resolution (talking over) the appeal in part.

**Jenkins:** I think in light of the fact that you've likely canceled your March 5<sup>th</sup> meeting and in light of the amount of time that's passed, I really think we should expedite the resolution and get it on your agenda next week.

**Altschul:** Yes, that's what I said.

**Jenkins:** So you can take your final action and then they can appeal if they want to.

*Altschul:* Right, right. So that will be the order of the day. Thank you.

(ITEM 9.A. OFFICIAL RECORDING ENDS).

**B. 8811 Santa Monica Boulevard. (Eleven)  
Amendment Permit 2008-005:**

Applicant is requesting to extend hours of operation of an existing nightclub.

Applicant requested a continuance to Thursday, March 19, 2009, to allow for community outreach and mitigation regarding noise issues.

**ACTION:** Continue to Thursday, March 19, 2009. **Moved by Commissioner Hamaker, seconded by Vice-Chair DeLuccio and unanimously carried as part of the amended agenda.**

10. **NEW BUSINESS.** None.

11. **UNFINISHED BUSINESS.** None.

12. **EXCLUDED CONSENT CALENDAR.** None.

13. **ITEMS FROM STAFF.**

**A. General Plan Update.** None.

**B. Director's Report.**

Susan Healy Keene, Director of Community Development, stated there will be a 2009 Planner's Institute, March 25-27, 2009. She encouraged participation.

Michael Jenkins, City Attorney, stated for the record, the public is not required to state their name or place of residence when they speak.

**C. Planning Manager's Update.**

David DeGrazia, Acting Planning Manager, provided an update of upcoming projects tentatively scheduled for Planning Commission.

14. **PUBLIC COMMENT.** None.

15. **ITEMS FROM COMMISSIONERS.**

Commissioner Yeber questioned the pro-activeness regarding boarded up projects which seem to be affected by the economic downturn.

16. **ADJOURNMENT:** The Planning Commission adjourned 7:40 P.M. to a regularly scheduled meeting of the Planning Commission, which will be on Thursday, February 5, 2009 at 6:30 P.M. at West Hollywood Park Auditorium, 647 N. San Vicente Boulevard, West Hollywood, California. **Motion carried by consensus of the Commission.**

APPROVED BY A MOTION OF THE PLANNING COMMISSION ON THIS 19<sup>TH</sup> DAY OF FEBRUARY, 2009.

CHAIRPERSON

ATTEST:

COMMUNITY DEVELOPMENT DIRECTOR