



PLANNING COMMISSION MINUTES
Regular Meeting
December 7, 2006

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

1. CALL TO ORDER:

Chair D'Amico called the meeting of the Planning Commission to order at 6:33 P.M.

2. PLEDGE OF ALLEGIANCE: JoAnna LaForce led the Pledge of Allegiance.

3. ROLL CALL:

Commissioners Present: Altschul, Bartolo, DeLuccio, Thompson, Vice-Chair Guardarrama, Chair D'Amico.

Commissioners Absent: Hamaker.

Staff Present: Adrian Gallo, Assistant Planner, Francie Stefan, Senior Planner, John Keho, Planning Manager, Susan Healy Keene, Community Development Director, Christi Hogin, Assistant City Attorney, and David Gillig, Commission Secretary.

4. APPROVAL OF AGENDA:

ACTION: Approve the Planning Commission Agenda of Thursday, December 7, 2006 as presented. **Moved by Commissioner Thompson, seconded by Commissioner DeLuccio and unanimously carried; noting the abstention of Commissioner Hamaker.**

5. APPROVAL OF MINUTES.

A. November 16, 2006

ACTION: Approve the Planning Commission Minutes of Thursday, November 16, 2006 as presented. **Moved by Commissioner Thompson, seconded by Commissioner DeLuccio and unanimously carried; noting the abstention of Commissioner Hamaker and Chair D'Amico.**

6. PUBLIC COMMENT.

TOM DEMILLE, WEST HOLLYWOOD, commented on political atmosphere, and stated he would not be running as a candidate for the City of West Hollywood City Council.

STEVE MARTIN, WEST HOLLYWOOD, commented on the recent Housing Summit.

ED BUCK, WEST HOLLYWOOD, commented on the recent Housing Summit.

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

8. **CONSENT CALENDAR.** None.

9. **PUBLIC HEARINGS.**

A. **8703 West Knoll Drive.**

Extension Request 2006-001: Adrian Gallo, Assistant Planner, provided background information as presented in the staff report dated Thursday, December 7, 2006.

He stated the applicant is requesting to extend the approvals previously granted for the construction of a seven-unit, four-story residential condominium building. The original approvals were valid through December 4, 2005. Pursuant to the Zoning Ordinance, the applicant requested a one-year extension and the Director approved the request. Therefore, the permits are valid until December 4, 2006. This second request for a time Extension requires review and approval by the Planning Commission.

Staff recommends approval of the extension request.

Commissioner Altschul questioned the date in ownership change and if any documents have been submitted to support an ownership change.

Adrian Gallo, Assistant Planner, stated for the record no documents have been submitted.

Chair D'Amico questioned if there are any plans to change the materials of the original design, due to a change in ownership.

Adrian Gallo, Assistant Planner, stated there has been no official request to change the architecture.

Chair D'Amico opened public testimony for Item 9.A.:

DEREK HEEB, LONG BEACH, representing the applicant, presented the applicant's report. He provided background information on the ownership change, history of the property, project team and construction issues.

Commissioner Altschul questioned the ownership change.

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

ACTION: 1) Adopt Resolution No. PC 06-707 as presented "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD CONDITIONALLY APPROVING EXTENSION REQUEST 2006-001, EXTENDING THE APPROVAL OF DEMOLITION PERMIT 2002-033, MODIFICATION 2003-007, AND TENTATIVE TRACT MAP 2003-010, UNTIL DECEMBER 4, 2008, AT THE REQUEST OF 3-A HOLDING, FOR THE PROPERTY LOCATED AT 8703 WEST KNOLL DRIVE, WEST HOLLYWOOD, CALIFORNIA"; and 2) Close Public Hearing Item 9.A. **Moved by Commissioner DeLuccio, seconded by Vice-Chair Guardarrama and passes on a Roll Call Vote:**

AYES: Commissioners Bartolo, DeLuccio, Thompson, Vice-Chair Guardarrama, Chair D'Amico.

NOES: Altschul.

ABSENT: Hamaker.

B. 846 N. Huntley Drive.

Tentative Tract Map 2006-023: Francie Stefan, Senior Planner, representing Rachel Heiligman, Associate Planner, provided background information as presented in the staff report dated Thursday, December 7, 2006.

She stated the applicant is requesting to subdivide a two-unit residential project into a common interest development. The development of the residential project was approved on November 18, 2005.

Staff recommends approval of the proposed tentative tract map.

Chair D'Amico opened public testimony for Item 9.B.:

GREGORY MAZLER, VAN NUYS, representing GM Engineering, presented the applicant's report. He agreed with staff's recommendation.

Commissioner Thompson questioned why the process was not done concurrently.

Commissioner Altschul questioned who the legal owner(s) are.

Christi Hogin, Assistant City Attorney, stated as of October 11, 2006, the Owner's Affidavit states the legal owner of the property is Anat Katz. If ownership has legally changed, proper paperwork will need to be conformed with the city. However, it does not impede the commission from approving the request.

ALAN ABERGEL, ENCINO, representing the applicant, spoke in support of staff's recommendation and was available for questions.

ANDRE LA ROCCA, WEST HOLLYWOOD, representing the architect, spoke in support of staff's recommendation and was available for questions.

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

Commissioner Altschul moved: 1) continue this item for thirty (30) days, in order to acquire the proper ownership paperwork; and 2) bring back under Consent Calendar.

Seconded by Commissioner DeLuccio.

Commissioner Thompson commented on the circumvention of the Design Review process.

Vice-Chair Guardarrama requested statistics on the number of buildings which are actually approved in this manner.

ACTION: 1) Continue to Thursday, January 4, 2007. **Moved by Commissioner Altschul, seconded by Commissioner DeLuccio and unanimously carried; noting the abstention of Commissioner Hamaker.**

Commissioner Altschul recused himself from the dais at this time. A client was a former owner and mortgage holder of this property.

C. 8135 Norton Avenue.

Zone Clearance 2006-010: Appeal of the Director of Community Development's approval of a zone clearance to reduce the number of dwelling units in a multi-family structure from six units to three units.

The applicant is requesting a continuance of this item because their client is unable to attend the Public Hearing date of Thursday, December 7, 2006.

ACTION: 1) Continue to Thursday, February 1, 2007. **Motion carried by consensus of the Commission.**

Commissioner Altschul returned to the dais at this time.

**D. Medical Marijuana Dispensaries.
Zone Text Amendment 2006-010:**

[VERBATIM TRANSCRIPTION]

Provided and certified by Written Communications, Inc.

D'Amico: Item 9.D is a Zone Text Amendment 2006-010, Amendment to the Zoning Ordinance developing a new Land Use Category and location criteria for Medical Marijuana Dispensaries and to consolidate other existing standards into the Zoning Ordinance. This is a citywide Zone Text Amendment. The Planner is Francie and go ahead.

Stefan: Thank you again. Thank you Chair and Commissioners again. Amendment to the Municipal Code to create this Land Use Category for Medical Marijuana Dispensaries as well as standards for those dispensaries. In March of 2005, the City Council passed a moratorium on the establishment of new more...new medical marijuana dispensaries to allow time for staff to research potential standards to regulate this Land Use. So we've been doing that since that time. The State Law allows a total of two years for a moratorium and so the moratorium will expire on March 7, 2007. With that in mind, we have come here...it sounds like it's many months away, but actually given all the processing time to get the City Council on second reading, this is the last hearing possible to get new regulations in effect prior to expiration of the moratorium. With that in mind, we're recommending that you try and take action on this item tonight. During the moratorium, Council has adopted operating standards for the dispensaries that include things such as hours of operation, requirement for security guards, a prohibition of firearms, a requirement that the dispensaries provide a neighborhood patrol to make sure people aren't loitering in the, in the vicinity of the dispensaries and so on and so forth. One of the items that you have before you tonight is just to consolidate those. Those were put into Chapter 7.32 of the Municipal Code and we're just proposing to move them over to consolidate them with the new ones tonight, so that's part of the action. The primary item before you tonight is the location requirements and so what we're proposing is a separation of the dispensaries from each other of 750 feet, a separation of the dispensaries from places of religious worship, parks, schools and child daycare facilities of 500 feet, and an option that you could also consider a separation from residential zoning districts of 250 feet. To help along the discussion tonight, you have before you a map that you got and I believe there's some on the back table as well, that shows the location of the existing dispensaries in red, shows schools in blue with a buffer that around those of 500 feet. Churches, which unfortunately it was just a...it includes all places of religious worship. It's not just churches. It's temples and others as well. Those are in yellow and parks in green. I apologize that this does not include the daycare facilities. I apologize for that. There are about 12 to 15 of them, mostly in residential zoning districts. But this gives you a flavor of sort of what the effect of these buffers would be. Needless to say, if you added residential to that, you know, the buffering area would become quite a bit larger as there's a significant amount of residential zoning in the City. So that's, that's before you to help your consideration tonight. As I mentioned, we also propose consolidating the requirements. There are a few additional requirements in there that includes that facades would be required to be compatible with the surrounding commercial

land uses so they wouldn't be easily distinguishable from the others, that the existing dispensaries attend month...the monthly meetings that we hold. Currently staff is meeting with the dispensaries on a regular basis. The Sheriff Code Enforcement staff, Planning staff and the dispensaries all meet to discuss whatever issues have come up and this has so far been a very productive way for us to maintain open and frequent communication with the dispensaries and to deal with problems as they come up and so far has been a very productive way of dealing with things and the Sheriff's Department and, and Christian Cook, the Public Safety Manager, is also here. They're here tonight to discuss anything, if you have any questions about that. Additionally, firearms were prohibited by Council action before. This adds tasers as an additional prohibition. So the dispensaries would not be allowed to have tasers or firearms on site. And it would also limit the total number of dispensaries to four. Currently, we have six existing in the City, one on Sunset and the remainder on Santa Monica Boulevard. The existing dispensaries would be allowed to continue operations as legal nonconforming land uses, which would limit them in some sense to, you know, in terms of expansion, relocation, so on and so forth, but they would be allowed to continue as they're operating today and no new dispensaries would be allowed to be established until the number went down below four. So that's all that I have to say tonight. And I'm here for any questions.

D'Amico: John?

Altschul: Yeah, Francie, I think you're got the churches pretty well covered, but there are two temples that I know of, one on Crescent Heights and Fountain that is not indicated and one on La Brea and Lexington that is not indicated, at least not on the copy of the map that I have.

Stefan: What you may find, unfortunately this is sort of an issue with the software. There is...the temple on La Brea and Lexington for example, if it had multiple...they may offer multiple services there that include a church and...or a temple and a school, so it may be on the map, it may just be covered up by the red.

Altschul: Doesn't have a school.

Stefan: Well, if it had...okay. So maybe that's....

Altschul: Also....

Stefan: It may have been just an oversight.

Altschul: Also, that church on Crescent Heights just below Sunset, it's a Korean Church I believe. That isn't indicated either.

Stefan: Okay, I, I confess, there may be, there may be some things that are missing here. I did my best to identify the ones that I could and map it.

Altschul: You remember they were here just a few weeks ago or the residents on top of the social home.

D'Amico: Joe?

Guardarrama: Yeah, I have a question for the City Attorney. In reading the packet, it seems like our authority for regulating medical marijuana comes from Proposition 215. And there's a little bit in there that the Supreme Court made a decision about it. Could you explain a little bit more?

Hogin: Well, as you know, the voters adopted Proposition 215, which was the Compassionate...what's it called, Compassionate Use Act or...and which allowed for these co-ops to be formed for people who have recommendations for doctors for medical marijuana use. There has been no court case yet that has found that Proposition 215 is illegal or preempted. That is still an open question, but there are cases that are coming at it and currently we have a Supreme Court case that has basically found to notwithstanding Proposition 215 Federal law still applies and so the Federal Government may take enforcement action or may charge people with possession or sale or...but we're not, we're not concerned locally with those particular rules and this is still kind of up in the air. So we'll...I mean as things shake out. This is not an easy situation. The City has a policy of, among other things, complying with State initiatives and certainly there's a...at least has been in the past, a policy in the City of trying to accommodate those who are living with AIDS and find that this is a useful tool in that. So the City's pressing on in adopting these to put in place those restrictions that will apply and we're just going to wait as the courts kind of work out the rest of it, but there is currently right now no legal prohibition to what we're doing here tonight.

Guardarrama: Okay, that was my question. Thank you.

D'Amico: Eric?

Thompson: Well, I'll, I'll get into it more when we go into discussion, but just a quick question for staff. The radiuses of 750, 500 and then you talk about possibly the radius of 250 in the context of residentially zoned property. Where do those radiuses come from? Are those the standard noticing radiuses or...I mean where...what....

Stefan: They're a standard radii that we use for other businesses, such as adult businesses and then so on and so forth, but the Commission may want to look at other options if they feel that they're insufficient to deal with secondary effects. I mean the idea is sort of to, to mitigate secondary effects on sensitive land uses.

Thompson: Thanks.

D'Amico: Any other questions? I have one myself. So given that we have six and we're asking that there be no more than four, it seems the likelihood of more than two going away any time soon, so is it, is it sort of the...by backing into this, is this really where the City wants these dispensaries to be where they are?

Hogin: Okay, I'll give you the legal analysis. Excuse me, if it covers the Planning part. Where they are now, they are. They're in the unregulated world and this is the classic case of legal nonconforming use. So we haven't regulated it. Now what we're doing tonight is looking forward and saying, you know, here's where we want them to be and if we had our blank slate to deal with and that's where she's showing you through this map and through the other regulations how we would place them if a new one came to town, but you're right, because there's a limit of four and there's currently six, you know, three of them will have to leave town before the new one comes in that would then be subject to these new regulations.

D'Amico: Okay. Thank you. So we have a small group of speakers. The first is Tom DeMille and following Tom DeMille will be JoAnna LaForce.

DeMille: My name is Tom DeMille, West Hollywood. I actually got redressed and came back out because this is just too important to pass. I ask for, for a continuance on this item because I really feel like we have some outstanding issues that are unresolved, like where the 1,000 feet become 500 feet. I believe that there's campaign donations that are involved in this. I think the law is the law. It's a State law. It's a 215 law. The club in question, the pharmacy at 7825 Santa Monica perjured themselves to the Court and this man's not here tonight. Their, their other guests are here tonight to stop me from picketing their place because they do nothing for people living with AIDS. They do nothing for people living with cancer, anorexia, glaucoma. They do nothing. They make \$5 million a year and that's changing the fabric of politics in West Hollywood again. That's why I asked for a continuance because this smells in a big way and this will come back to bite you in a big way during the campaign season. By the way, the moratorium goes into effect March 7th. Well, the election's March 6th. Isn't that a melting pot for donations? I speak on jeopardizing my safety and I know that the Sheriff's Department is here tonight and will take note of it because these people are capable of anything. I can speak good about a couple of places. The Fairfax location upstairs where the old billiards place used to be, they do take care of people living with AIDS. People at the pharmacy think that they can donate a box of food to City Hall with their name plastered across it on every, every side of the box and take credit for this like they're big, big people. Well, they gave a couple boxes of cereal while they stole and pillaged and raped and rampaged our City for \$5 million and at the expense of the Fountain Daycare School where there's 300 parents. They're going to want to know why you did this tonight. 300 parents. So I ask you for a continuance. It's the smart and prudent thing to do. Thank you.

D'Amico: Thank you, Mr. DeMille.

Bartolo: Excuse me, I have a question.

D'Amico: Kate?

Bartolo: Hello? Tom?

D'Amico: Tom?

Bartolo: Tom, could you come back for a moment now that you've redressed. I want to ask you a follow up question if I may. You made a statement that the, the first location that you referenced, the pharmacy.

DeMille: Yeah, 7825 Santa Monica.

Bartolo: They did not service people with...I believe...I, I can't list all the diseases or the medical problems, but with AIDS, glaucoma....

DeMille: Well, they've actually, they've actually prostituted the law by their...you know, if you get a, if you get in a car accident (TALKING OVER) and you....

D'Amico: Will you let her ask her question, Tom?

DeMille: Sure.

Bartolo: What I'm, what I'm trying to get to is I don't understand what you were saying. What does it mean that they don't service them? Could you define that for me?

DeMille: I've lost 25 people in my building from malnutrition. They didn't die of AIDS, they died of malnutrition, Ms. Barlow.

Bartolo: Okay, but the...Bartolo, but see, what I'm asking is that part of the business plan of the pharmacy?

DeMille: It's part of the greed factor that they have. Now that they want to be king makers too, donating food...well, you know, how about an 18-wheel truck full of food because that's how much money they're making and, and....

Bartolo: Okay, so you...you feel they are not charitably inclined.

DeMille: Totally just the opposite. The man who, who runs the pharmacy served eight years in San Quentin Prison if that'll tell you anything.

Bartolo: (TALKING OVER) I needed to understand that. Thank you.

D'Amico: Thank you, Mr. DeMille. JoAnna LaForce will be followed by Richard Eastman. All right, JoAnna, you mean defer it 'til later or not speak? All right, thank you. Richard Eastman?

Eastman: Good evening Planning Commission, Richard Eastman, City of residence Hollywood, California, but I'm a former HIV/AIDS Commissioner representing 57,000 people living with HIV and AIDS that we know in Los Angeles County. About 10 years ago, Scott Imler and I, who is sitting in the audience, opened the L. A. Cannabis Resource Center and at the time it was Scott Imler and two AIDS patients. The other patient isn't here, but I'm here today because the medical marijuana does help me keep impeding. You know, a lot of the medications that we do take, take away our appetite so...but I've

been very lucky that I have benefited from the medications that keep the HIV at bay and I'm allowed to get the medical marijuana from some of the facilities. I don't get much in West Hollywood anymore because I get mine from one of the facilities in Los Angeles, but, you know, about three years ago, a State Assemblyman Paul Koretz and I, the co-author of SB420 convened L. A. County Medical Marijuana Task Force and we got to the Board of Supervisors and the Planning Commission there came up with a set of rules and regulations that seemed to work good for the County of Los Angeles in the unincorporated area. I want to applaud the people like John Heilman and the various City Council members and Steve Martin for helping Scott Imler and I all those years ago to open the first cannabis club and this is a situation where when I spoke out 10 years ago, I didn't want it to become where some guy in Amsterdam would get rich. So I want to say Tom DeMille does have a couple of points. I'm on Social Security. If I wasn't able to get a compassion, the law is called the Compassionate Use Law of 1996. If one of the cannabis clubs didn't give me compassion, I would be probably starving too. I get \$836.00 from the Federal Government. My rent is about \$671.00. If I don't have a roommate, I could be eating cat food on crackers. So, you know, I, I want to say when we passed this law and I spoke out that first time, you know, there was no rules and regulations and Assemblyman Koretz and I and Attorney General Bill Lockyear, we...and Scott Imler and a bunch of us met in Sacramento and we convened SB420, which allowed these other clubs to open. Well, you know, I want to applaud you and I'm in support of the Planning Commission's recommendations tonight. It's something that needs to still be worked on a little bit, but I do believe most of these clubs have compassion. I can't speak for all of them because I don't go to all of 'em. But, you know, if I went to all of 'em, I would probably have way too much medical marijuana and I've had to be a roving cannabis club like some of the patients come up to me. They can't get the medical marijuana. But I want to thank Scott. I know he's here and I believe he'll be speaking and the other people that are defending their clubs and I want to thank Mayor Heilman and, and the City Council members and your efforts to continue to help provide people with AIDS and cancer and glaucoma and multiple sclerosis and the four or five hundred other illnesses that doctors have recommended this medicine for. I also want to thank the United States voters of this country for electing Nancy Pelosi because...thank you.

D'Amico: Thank you, sir. William Britt will be followed by Bogart McAvoy.

Britt: Good evening, my name is William Britt and I live in Long Beach. I'm the Director of the Association of Patient Advocates, which is a grass roots organization that works with...for disabled, the rights of disabled people. I work with many different collectives in Southern California and I can testify that amongst them, the pharmacy does provide services for people, for people with HIV and other illnesses. They do provide other services and help. Actually, I'd like to come here and say thank you for all the work that you've done and the work in West Hollywood. You've been a leader for the Southern California when hope...you put hope when we've had none in other areas like Orange County and, and San Bernardino, Riverside, where they just ignore the law. There's a campaign of willful ignorance going on. We did have a little bright spot yesterday. We...in San Diego lawsuit, I don't know...not sure if you're aware. San Diego was trying to overturn the law saying that Federal Law supercedes

state law and the Judge in that case just ruled that that's not the case, that these cannabis law does stand. They have to abide by it. They have to do these I.D. card programs. That just affirms that the work that you've been doing is right and in the forefront. One problem that has come up with the...with these ord...with the ordinance and that's been happening is that there's a ban on consumption on site and there are a lot of people who don't have areas...places. There's people in, in Section VIII housing and type of housings that they have, they have no place where they can use their medicine. There is employees...volunteers and employees that these...the collectives are being forced to go out into the street or going out into their cars and areas where they're not supposed to be and I see a potential for a large problem of people medicating in public and these...and the L. A. County Board of Supervisors has seen fit to actually allow this activity as long as it's in a, a separate room, ventilated and, and supervised. So I believe that there really is...this is a...it's a minor problem now, but it can escalate and I think it's really important 'cause right now patients are, are suffering and employees are where...I've spoken to many different employees and, and volunteers at these collectives who are very concerned about this and don't want to have to...are worried about using their medicine. So at the minimum, employees should be able to, be able to use the medications, but also patients should be able to have a place, a safe place to use their medications. Thank you.

D'Amico: Thank you, sir. Bogart McAvoy will be followed by Rev. Scott Imler.

McAvoy: Bogart McAvoy from West Hollywood. I'm here representing the West Hollywood Center for Compassionate Healing located at 8921 West Sunset Boulevard. A couple points I just wanted to speak on. First of all, I also want to thank you all for your approaching this very difficult issue head-on and all the participation that West Hollywood is engaged in over the last several years. The two points of the proposal tonight that I'd like to address are the limitation from the existing six clubs to four clubs. I would propose that it, it may...it stay at...it not be limited to four, but to stay at six. I know that you're not trying to take any away, but you're saying as, as they close to not allow new ones to replace them. My reason for that would just be that I feel like the greater representation of the movement will give it a more...more of a greater head of steam and a greater possibility of, you know, success on a Federal level and also the comments that the last gentleman regarding staff members, employees, volunteers to be able to consume their medicine on site. I would also offer that that would be an appropriate behavior. As far as patients, I think that also would be of benefit, that it potentially could be on-site, but in a separate location than the actual medicine is dispensed. Thank you.

D'Amico: Thank you, sir. Scott Imler will be followed by Jason Beck.

Imler: Thank you, Mr. Chairman, members of the Commission. My name is Scott Imler. I'm the resident pastor at Crescent Heights United Methodist Church at the corner of Fountain and Fairfax in West Hollywood. I'm also the co-author of Proposition 215 and was a member of the Attorney General statewide medical marijuana task force, served on the drafting committee that wrote the language for SB420. I'm also a cancer survivor and the founder of the Los Angeles Cannabis Resource Center, which was closed by the Federal Government in October of 2001. I came here tonight to express three concerns about the measure that's before you and I regret that I've been...spent most of the last month in the hospital or I would've tried to get to John and his staff sooner with these concerns. The first one, you know, of the 4,700 words that make up Prop 215 and SB420, not one of those words is dispensary, not one of those words is business and the word cooperative is used only once and it's used as an adverb and not a noun. My concern with...my first concern is with the applicability section. Essentially what West Hollywood has supported over the years and what other committees in West Hollywood is getting ready to do is to define and codify the word dispensary, quite independent from the statutory language of 215 or SB420. My concern with the applicability section given that reality is that it seems to me it's kind of sprawling. It uses words that are specific, cultivation, storage, it uses words that are specific to the existing statutes and mixes them in with dispensary, which is a word that you guys are creating by virtue of this process. And if you look at the language, it talks about any location, site. Conceivably on a plain reading of this language, you know, an individual patient or two patients that share an apartment and grew their own two or three plants, stored this...that supply and handed a joint to one another would be considered under this applicability section a dispensary. And so I'm hoping that the Commission can find a way to be more specific in this section about dividing public commercial exercise of rights that the City is granting to these dispensaries and organizations from the private non-commercial exercise of 215 and 420 rights by patients and their caregivers. And the easiest way probably to do that would be with perhaps a disclaimer and exclusionary provision that said something to the effect of nothing in this section is intended to prohibit or curtail the private non-commercial exercise of patients' statutory rights and authorities pursuant to the Compassionate Use Act.

D'Amico: Thank you, Mr. Imler. Yeah.

Thompson: With your permission, I would like Mr. Imler to finish his thoughts. Please.

Imler: Thank you, I, I did make...I did bring printed summaries of my three concerns for the Commission. The second one just very quickly has to do with the proximity limitations to churches. The church that I serve as Pastor has been involved with this issue for over 10 years now, has been involved with direct patient care. At one time in 1996, provided sanctuary and support to the fledgling LACRC when the police were kind of after us at that point and we have a lot of qualified patients who are members of our congregation and we continue to have meetings and support groups there and so in the absence of more defined separation between commercial and non-commercial, we're concerned about the part that says no medical marijuana activities under this definition of dispensary could happen in or around our church. So that's a little...that's troublesome as well. Perhaps that's not an issue if we can get the first

applicability issue solved. My third and last, very quickly, concern is that in 2001 after the Federal Government came in and closed us, our Board of Directors made a very deliberate and considered decision to abide that Federal closure order and to pursue every avenue we could legal, political, administrative, to create this situation again where we could come back together, reestablish our cooperative cultivation project, again the word cooperative goes with cultivation, and reopen our dispensary. The limitations on the number of clubs, the four after, you know, this two of the six disappear, is a...we think is a little bit unfair because it would preclude us from being able to put our program back together at the point where marijuana is rescheduled. We are still a party to the rescheduling petition currently pending with the DEA and like Richard said, Nancy Pelosi has promised us some change. Thank you very much.

D'Amico: Thank you, sir. Jason Beck will be followed by Ed Buck.

Beck: Hello, good evening, Jason Beck, resident of the City of West Hollywood, patient as well as a proprietor of a medical cannabis dispensary inside West Hollywood. I also have a dispensary in San Francisco and we work with...going through a Planning Permit process, so this is all a little familiar, little too familiar. I like the staff's recommendation. I think some things do need to be tweaked with it a little bit, but I think overall it's a good piece of legislation and I think it should be recommended this evening. Thanks a lot.

D'Amico: Ed Buck?

Buck: Ed Buck, City of West Hollywood. I think it was clear that when this City embarked on its mission for medical marijuana, it was about compassionate use. It was about the need. It was almost like a hippie revolution. Five million dollars a year is a lot of money. Obviously, some of these medical marijuana clubs have tried to influence our City Council Members. Evidence of that is the \$3,200.00 contribution that Abbe Land got from just one of the clubs. But we can put that behind us and deal with this issue specifically on its merits. It is intended to be compassionate use. So tonight we have an opportunity to write that and codify that into this piece of legislation. In the same way that we require developers to do a 15 percent set aside, let's examine requiring every medical marijuana dispensary in the City of West Hollywood to provide free marijuana to patients who meet the standard and need it. Let's put real meaning into that compassionate use. We are providing these clubs with a unique opportunity in the City of West Hollywood to come here, to open and they do bring problems and they do cause our Sheriff a lot of grief. We have given them something. Now let's ask these businesses to give back to the community. Let's ask them to set aside 15 or 25 percent of their weed that they grow for compassionate, free dispensing to people who fit the need. Thank you.

D'Amico: Thank you, Mr. Buck. Before I close the public testimony portion of the public hearing, JoAnna, did you wish to speak? All right.

LaForce: My name is Joanna LaForce. I'm on the Board of Directors for the Pharmacy. I'm not going to go to rebut a lot of the things that were said. I can tell you, I'm a Pharmacist. I've been a registered Pharmacist for 30 years. My last 15 years, I've done work with hospice for pain management. I also have register vocation in geriatric pharmacology and that is why my interest is in this development and being a part of the pharmacy. We do, do a lot of compassionate care giving. We work with a lot of local groups and we're very interested in being a part of it as much as we can and growing in that way and we...our goal is compassionate use, so thank you.

D'Amico: Thank you, ma'am. All right, that closes the public testimony portion of this public hearing. I actually have a question based on the testimony. Do we have any idea how much money...well, let me ask this a different way. Does the City receive tax revenue based on sales?

Stefan: I'm not a 100 percent aware of that. I don't believe that they do, but I don't know for sure.

Altschul: Put it another way, do they charge sales tax on it? Well, you would know. Somebody...Tom, do they charge sales tax on it? Okay, so the City doesn't receive anything. Is there business license taxes?

Hogin: Yes, and we get a tax on the gross receipts.

D'Amico: So we do get a tax on the gross receipts. Oh, thank you. Got it. John?

Altschul: Lots of interesting questions and I thank Rev. Imler for coming and raising lots of interesting challenging questions and he has been at the forefront of this marvelous program, this marvelous idea and this hard struggle for many, many years. Given the fact that there is a deadline and that the moratorium expires on March the whatever, I think we need to move this along and I would recommend that we look at it in terms of moving it substantially as suggested by the staff, but requesting that in between....that this time and the time that the matter comes to the City Council for actual approval, that the staff work with the members of the public that are interested, specifically Mr. Imler and Mr. Eastman to modify the ordinance of the Zone Text Amendment to the satisfaction of the staff as much as that can be done given the ideas on the input of the people that have spoken tonight. The thing that Buck brought up, I find very interesting and can I ask the staff and specifically Christi, if the City wanted to request let's say 15 percent or some quantification of amount of product be set aside for compassionate distribution, is it possible to assess the businesses that we allow to do this, an amount of money to fund a social service staff person to make the assessment to the people who need...who are eligible on a needs basis and give a certification?

Hogin: Enough on your applause. I have...we'll have to look at it. I have a lot of questions come in my head. First of all, I'm sure that we're not going to want to get into the business of distributing. I, I just feel that that would just....

Altschul: No, but could we get....

Hogin: ...call the attention....

Altschul: Could we get into the (TALKING OVER). Could we get into the side of, of certifying needs.

Hogin: Right, I understand that and the second thing is of course all of the dispensing is supposed to be for medical need. So all of it, you know, it's based on a doctor's recommendation.

Altschul: Oh, yes, but we're talking now...excuse me for interrupting, you but...

Hogin: Sure.

Altschul: ...we're not talking about the medical needs. That's a hundred percent of the people.

Hogin: Right.

Altschul: We're talking about compassion...the word compassion as it applies to people who have the medical need, but not the financial wherewithal.

Hogin: And that's the part where I think there may be an opportunity and that I would want to look more closely at it. I would want...whether the City might provide grant money that is maybe funded or something like that, but that's something that, that we could probably play with. That's a possibility.

Altschul: May I ask Francie, is there perhaps 30 days worth of room in here to continue this item to work with Mr. Imler and still get it to Council for second reading prior to the expiration of the moratorium?

Hogin: We can...you know, we can always evolve. I mean we can, we can go forward with what you have and concurrently come back with additions and changes as we go along.

Altschul: Okay.

D'Amico: Kate?

Bartolo: I for one would like to report back on that question and I think it's an interesting one and I would...what I'd like is a certain amount of City deliberation in terms of the ins and outs of that because it's obviously setting new ground, literally and figuratively, so we would really appreciate that.

D'Amico: Eric?

Thompson: Well, I just...I don't even know if there's support up here for this, but I was...and I...and by the way, Francie, I get what...where these radius numbers come from 'cause I immediately recognize them as the normal and it's status quo radius numbers, but if we're talking about six dispensaries, four if, if ones close, right, those are the numbers? I don't understand why these radius numbers, especially the...I can understand why there's the radius number for 250 feet to a residentially zoned property because if we're requiring that the dispensaries be located on a corridor, there could be residential housing immediately behind the facilities. So I kind of get the 250, but on the other numbers, the 750 and the 500, in other words, the proximity of the facility to another dispensary and the proximity of the facility to a church, temple or other place, blah, blah, blah, blah, I don't understand why those numbers aren't bigger. I mean if the purpose is to...and I support this, by the way. I mean I...but if the purpose is to strategically place medical marijuana dispensaries throughout our community so that they evenhandedly help people in all locations, I think there's a better number than these two radiuses. I don't want to over restrict the facilities and, you know, make them only...you know, because of the numbers we push, make them only be able to locate in like the 8000 block of Santa Monica Boulevard, but I think that what I'd like to avoid is the situation, I mean I think there are two now that are right across the street from one another if I'm not mistaken. You know, we should try I think if we're moving forward with these efforts to correct that in the future, I don't think there's anyone in this room, you know, even those who are huge advocates of the dispensaries that would deny that the purpose, you know, part and parcel to doing this is to locate the dispensaries, you know, spread out over the City. So it's just a thought.

D'Amico: Donald?

DeLuccio: Yeah, I share Eric's thought as well. I know where the 500 probably came from. That's when we deal with alcohol, 500-foot separation from church and schools, so I understand the 500. But maybe the 750 can be re-looked at and maybe expanded on. And the 250, I guess is because there's so much residential in adjacent to commercial that it would be pretty difficult actually with 250 to open up any new ones.

D'Amico: If mixed views were to happen, there would be commercial underneath housing and....

DeLuccio: I have another...I have another comment. What if the Los Angeles Cannabis Resource Center was to be able to reopen? They were there before. How does that...would that play into this?

Stefan: Under these provisions, they wouldn't be able to reopen unless they met the new criteria. The...if you're referring to the former LACRC that was at 7494 Santa Monica Boulevard, that's actually been changed over now to a mixed use building with retail on the ground floor, office on the second floor and housing above. So they've...it's been...it has a new ownership and it's been revamped for that new use and construction is already complete so....

DeLuccio: They would...they'd have to be under...if that was to come...if they were able to come back, they'd have to go through this pro...the process.

Stefan: Right, exactly, they'd have to get permits that comply with the use requirement.

D'Amico: Well, Joe?

Guardarrama: This is a difficult issue for me because in taking into account the Supreme Court case, you know, we sort of have...in the horizon, we have a potential conflict between State and Federal law and I'm sort of forced to balance that against the great need for these dispensaries. That being said, I think the staff did an excellent job at regulating and balancing all the issues. Not saying that, that new issues were or new regulations can't be done in addition to these and given the needs that we have for the Council schedule, I'd like to move this item.

DeLuccio: I'll second it.

D'Amico: All right, it's been moved and seconded.

Bartolo: I'd just like to ask that a report be brought back at the next meeting.

D'Amico: Is that...I'm sorry, go ahead.

Bartolo: Can we put that in the motion.

D'Amico: What was the suggestion?

Bartolo: With a proviso that a report be brought back to the Planning Commission at the next regularly scheduled hearing analyzing the issues, benefits, pros, cons.

D'Amico: Well, I think that's...this is the report that analyzes that. I think you're looking for the report that analyzes the opportunity to have a set aside for compassionate use?

Bartolo: Correct.

Hogin: Right, and that's obviously not a land use issue. So that's something that this...

D'Amico: That's right.

Hogin: ...Commission will never take action on, but we'll look into it and provide you a memo and just so you're up to speed and make sure that the Council's aware of your interest in that, so that if something that they want to pursue, they will.

D'Amico: Joe, is your motion with, with the existing radiuses or would you increase the 750?

Guardarrama: No, as, as proposed by staff.

D'Amico: John?

Altschul: I agree with Eric that the existing radiuses I think should be expanded, specifically with respect to the 750 radius between the locations. I'm all right with the 250 and 500, but I would also like to add to the motion that the issues of on-site segregated area for the type of people that the gentleman talked about, so it was not for, not for socialization and not for one big party. And if that can be included in the land use portion of it and some kind of very strict enforcement of that so that they...so that a location could perhaps lose its accreditation for lack of a better word, if they violate the boundaries of that, should...could be looked at and two of the other...the definitions and the, the...that Mr. Imler discussed also be studied prior to commission of the final motion draft (TALKING OVER).

Hogin: The exemption for noncommercial use?

Altschul: Yeah, yeah.

D'Amico: So there is a motion on the table and it's just a request to amend the motion. Let me just go through this to see if it's accepted by the maker and the seconder. The first would be to allow for on-site use in some method or manner, which I guess...well, I guess it's whether we take it and then if we do, we can discuss the...that, that...if we accept that amendment, we can discuss the...that acceptance. Do you accept that amendment?

Guardarrama: No.

D'Amico: Okay. And the second is that definition of...would be changed of dispensary to....

Hogin: I think that the...I'm sorry, I.... I think the suggestion was along with approving this to also suggest that the staff analyze the suggestion of exempting out noncommercial private uses to make sure that it does...that this...our regulations don't conflict with private rights.

Altschul: Yes.

Hogin: And that we would do that in connection with our report to the City Council.

D'Amico: Okay.

Guardarrama: That's perfectly fine. The radius?

D'Amico: And the radius question?

Thompson: Well, actually I was just going to say, the 500 foot thing, I guess I...upon re-reading it, I'm in favor of compromise. I could live with that. I do have sort of true religion on the 750. I would like to see that number increase, so I'm wondering if the maker of the motion would, you know, accept an increase of say 1,000 or 1,250?

Guardarrama: 1,250's fine.

D'Amico: All right and the....

Thompson: I prefer 1,000.

Guardarrama: All right, let's comp...you want to do a compromise 1,000?

Thompson: Up to 1,000.

Guardarrama: Okay.

D'Amico: All right.

Altschul: Compromise is 1,125.

DeLuccio: Do I hear 12?

D'Amico: So we have a motion on the table to accept the staff recommendations along with changing the radius between dispensaries to 1,000 feet and also to come back with a review of the public versus private...what did you say, public, private....

Hogin: To add in our report to the City Council an analysis of the suggestion that we exempt out private noncommercial uses so that it doesn't...they're not regulated by the....

D'Amico: Thank you. All right. Seeing no other comments, shall we take a roll call vote, David?

Gillig: Vice Chair Guardarrama?

Guardarrama: Yes.

Gillig: Commissioner DeLuccio?

DeLuccio: Yes.

Gillig: Commissioner Thompson?

Thompson: Yes.

Gillig: Commissioner Bartolo?

Bartolo: Yes.

Gillig: Commissioner Altschul?

Altschul: Yes.

Gillig: Chair D'Amico?

D'Amico: No.

Gillig: Motion carried.

D'Amico: Thank you.

(ITEM 9.D. RECORDING ENDS).

ACTION: 1) Adopt Resolution No. PC 06-708 as amended "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLYWOOD RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ZONE TECT AMENDMENT 2006-010 RELATING TO A NEW LAND USE CATEGORY AND REGULATIONS FOR MEDICAL MARIJUANA DISPENSARIES"; and 2) Close Public Hearing Item 9.D. **Moved by Vice-Chair Guardarrama, seconded by Commissioner DeLuccio and passes on a Roll Call Vote:**

AYES: Commissioners Altschul, Bartolo, DeLuccio, Thompson, Vice-Chair Guardarrama.

NOES: Chair D'Amico.

ABSENT: Hamaker.

10. **NEW BUSINESS.** None.
11. **UNFINISHED BUSINESS.** None.
12. **EXCLUDED CONSENT CALENDAR.** None.
13. **ITEMS FROM STAFF.**

A. Director's Report.

Susan Healy Keene, Community Development Director, presented an update on the following: Pacific Design Center Red Building, Greenwich Place Project, Pavillion's, Pinkberry, Sunset Beach, Miyagi's, Sign Ordinance Subcommittee and outreach to new businesses. She wished everyone Happy Holiday's.

John Keho, Planning Manager, updated the commission on upcoming project's for 2007, including the Planning Commission's Housing Summit, scheduled for Thursday, January 18, 2007.

14. PUBLIC COMMENT.

JEANNE DOBRIN, WEST HOLLYWOOD, commented on the Housing Summit.

15. ITEMS FROM COMMISSIONERS.

Commissioner Thompson commended staff on the format and procedure of the Housing Summit and would like to see a report regarding the number of projects approved at staff level versus Planning Commission approval.

Vice-Chair Guardarrama wished everyone a safe holiday season.

Commissioner Altschul wished everyone a happy holiday season, commended staff on the format and procedure of the Housing Summit and requested an update on the ranking of the density of the City of West Hollywood.

Commissioner Bartolo commended staff on the format and procedure of the Housing Summit.

Chair D'Amico requested on the next agenda the formation of a long-range planning subcommittee regarding projects twenty-four months or further out concerning long range planning projects.

- 16. ADJOURNMENT:** The Planning Commission adjourned at 8:15 P.M. to a regularly scheduled meeting of the Planning Commission, which will be on Thursday, January 4, 2007 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 4TH DAY OF JANUARY, 2007.



CHAIRPERSON

ATTEST:


COMMUNITY DEVELOPMENT DIRECTOR