

CF 10-0119

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MEMO-LETTER

TO Patrice V. Lattimore
PLUM Committee
City Clerk, Room 395

DATE February 24, 2010
SUBJECT CF 10-0119
DIR 96-0122(CRV)(CPAS)
CD13

Dear Ms. Lattimore:

Enclosed are four copies of the Appellant's position statement in the above referenced matter, set to be heard on Tuesday, March 2, 2010.

Respectfully yours;

Lee Kahn,
Representative

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Planning and Land Use
Management Committee
Los Angeles City Council
Room 395, City Hall
Los Angeles, CA 90012

(Hand delivered on
February 23, 2010)

Re: Council File No. 10-0119
Case No. DIR 96-0122 (RV)(PA5)
CD 13

Dear Councilmember's:

Florentine Gardens has been owned and operated by Mr. Kenneth Mackenzie since 1982. It is a 22,800 square foot multi-purpose event venue. It has existed in Hollywood since the 1930's and is possibly the most renowned Grand Ballroom still in existence. Florentine Gardens holds a full-line on-sale general A.B.C. license (Type 47), live entertainment and patron dancing permits, and an occupancy load for 1484. Florentine Gardens provides 108 parking spaces on-site, and 120 additional spaces within a 100 foot radius, on properties owned by Mr. Mackenzie.

In 1996, nuisance abatement procedures were initiated by the City and corrective conditions were imposed. The use underwent 5 subsequent reviews for compliance with conditions before the Zoning Administrators Office. The last review dated June 7, 2007, found:

"that the operation of the Florentine Gardens restaurant, located at 5951 Hollywood Boulevard, is in substantial compliance with the Conditions set forth in the action of the City Council and Mayor."

The Zoning Administrator then Deleted Condition # 1, which required a Plan Approval review in 18 months, and deleted, modified or imposed 24 other conditions.

In December 2007, Mr. Mackenzie filed an application to delete and/or modify 10 of these conditions. After presentations and negotiations with the Hollywood Neighborhood Council (HUNC), the Police Department (L.A.P.D.), and the City Council Office, the application was refined and altered. At the public hearing on August 28, 2008 the request was to delete 2, and modify 6 conditions. (The Applicant withdrew the request to delete/modify 2 other conditions.)

As detailed in the Appeal, the Zoning Administrator did not render a determination in this matter for 15 months, then misinterpreted the matter before her as a mandatory review required by the City. This resulted in the reinstatement of Condition # 1, now requiring a 12 month review, without justification, finding, or nexus.

Attached hereto are the 2007 and 2009 determinations, the Master Appeal Form with attachment, a chart showing the remaining conditions which the applicant desires modified or deleted, and letters in support from First Presbyterian Church and Toyota of Hollywood. (Of the original 10 conditions, 2 requests were withdrawn by the applicant and 2 were deleted by the Zoning Administrator.) The positions taken by HUNC and the L.A.P.D. are included in this chart, as are the letters they presented to the Zoning Administrator.

Mr. Mackenzie's desire is to be put on par with other venues of similar size and scope of use (live entertainment, concerts, parties, banquets, patron dancing), that are allowed to operate past 2AM, use entrances into parking lots from Carlos Ave., undertake agreements with promoters for special engagements, etc. Other venues track records are no better than Florentine Gardens. No venue in Hollywood has undergone the scrutiny that Florentine Gardens has over the past 10 years, and no venue has a better track record.

We look forward to appearing before you on March 2, 2010, and remain;

Respectfully Yours;



C. L. Rabun
President and Chief Consultant

Enclosures

MASTER APPEAL FORM

City of Los Angeles – Department of City Planning

APPEAL TO THE: Area Planning Commission

(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: DIR 96-0122(RV)(PA5)

PROJECT ADDRESS: 5951 Hollywood Blvd.

FINAL DATE TO APPEAL: December 28, 2009

- TYPE OF APPEAL:
- Appeal by Applicant
 - Appeal by a person, other than the applicant, claiming to be aggrieved
 - Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

APPELLANT INFORMATION – Please print clearly

Name: Kenneth Mackenzie

- Are you filing for yourself or on behalf of another party, organization or company?

Self

Other: _____

Address: 5951 Hollywood Blvd.

Los Angeles, CA.

Zip: 90028

Telephone: (213) 842-6605

E-mail: CLR1985LEE@YAHOO.COM

- Are you filing to support the original applicant's position?

Yes

No

REPRESENTATIVE INFORMATION

Name: Lee Rabun @ CLR ENTERPRISES, Inc.

Address: 420 S. Sn Pedro St., Ste. 225

Los Angeles, CA.

Zip: 90013

Telephone: (213) 229-4300

E-mail: CLR1985LEE@YAHOO.COM

This application is to be used for any appeals authorized by the Los Angeles Municipal Code for discretionary actions administered by the Department of City Planning.

JUSTIFICATION/REASON FOR APPEALING – Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

- Entire Part

Your justification/reason must state:

- The reasons for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

ADDITIONAL INFORMATION/REQUIREMENTS

- Eight (8) copies of the following documents are required (1 original and 7 duplicates):
 - Master Appeal Form
 - Justification/Reason for Appealing document
 - Original Determination Letter
- Original applicants must provide the original receipt required to calculate 85% filing fee.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Applicants filing per 12.26 K "Appeals from Building Department Determinations" are considered original applicants and must provide notice per 12.26 K 7.
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

*"If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any."
—CA Public Resources Code § 21151 (c)*

I certify that the statements contained in this application are complete and true:

Appellant Signature: Kenneth Lukwago Date: 12-21-09

Planning Staff Use Only

Amount	Reviewed and Accepted by	Date
Receipt No.	Deemed Complete by	Date

- Determination Authority Notified Original Receipt and BTC Receipt (if original applicant)

ATTACHMENT to MASTER APPEAL FORM

Dated December 21, 2009

CASE NO. DIR 96-0122(RV)(PA5)

The Zoning Administrator erred and abused her discretion in issuing the determination dated December 11, 2009. The Appellant has been aggrieved by this determination and has suffered irreparable harm caused by the way this application was mis-handled by the Office of Zoning Administration.

The hearing in this case was held on August 28, 2008. The Zoning Administrator held the record open for a two week period. The decision in this case was not issued until December 11, 2009. There is no attempt to justify why there is a 15 month gap between closing the record and issuing a determination. It is obvious though, that the Zoning Administrator forgot what the facts of the case were, and misinterpreted the facts that were remembered. An example of this can be found on the first page of the determination, where the Zoning Administrator "modifies" Condition No. 1 of Case No. DIR 96-0122(RV)(PA5), dated June 7, 2007. However, that June 7, 2007 determination clearly states on the front page:

"I hereby DELETE corrective Condition No. 1 thereof,..."

Condition No. 1 is then printed, but lined-through, emphasizing its deletion. Furthermore, the last paragraph of page 10, of the June 7, 2009, determination then re-emphasizes the deletion of Condition No. 1, stating:

"The deletion of Condition No. 1 is based upon the currently compliant operation of the restaurant with respect to the Conditions in general and significant reduction in police activity at this location."

It is clear that during the 15 month period between closing the hearing and rendering a decision, the Zoning Administrator forgot several facts material to making a cogent and justifiable determination based upon the evidence and testimony presented. There is no explanation of this period of delay found anywhere in the determination. Further examples of this abuse of discretion and malfeasance will be presented to the APC at the time of hearing.

MICHAEL TOGRANDE
CHIEF ZONING ADMINISTRATOR

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

DEPARTMENT OF
CITY PLANNING
S. GAIL GOLDBERG, AICP
DIRECTOR

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SUE CHANG
LARRY FRIEDMAN
LOURDES GREEN
LINN K. WYATT
MICHAEL S.Y. YOUNG
MAYA E. ZAITZEVSKY

December 11, 2009

Kenneth Mackenzie (A)
Florentine Gardens
5951 Hollywood Boulevard
Los Angeles, CA 90028

Lee Rabun (R)
CLR Enterprises Inc.
420 South San Pedro Street, #225
Los Angeles, CA 90013

CASE NO. DIR 96-0122(RV)(PA5)
REVIEW OF CONDITIONS
5951 Hollywood Boulevard
Hollywood Planning Area
Zone : C4-1 and R4-2
D. M. : 148.5A191
C. D. : 13
CEQA : ENV 2006-8803-CE
Legal Description : Arb 2 of Fr. 7
of the Brokaw Tract

Pursuant to Los Angeles Municipal Code Section 12.27.1 and pursuant to Condition No. 11, dated June 7, 2007, I hereby DETERMINE:

that the operation of the Florentine Gardens has had limited compliance with the terms and conditions imposed by the Zoning Administrator and the operation continues to have adverse impact on the surrounding community.

I hereby retain, modify and add the conditions as described below.

1. [MODIFIED] The business operator shall file a Plan Approval application 48 12 months from the effective date of this determination to allow for a review of the effectiveness in implementing the Conditions and to determine whether additional and more restrictive or, fewer conditions need to be considered for the operation of the facility or whether revocation is appropriate. Failure to file the Plan Approval application may lead to revocation of the use.
2. All other use, height and area regulations of the Municipal Code and all other applicable governmental/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are specifically varied or required.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding neighborhood. The right is reserved to the Zoning Administrator to impose additional corrective Conditions if deemed necessary for the protection of the neighborhood.
4. These Conditions shall be retained on the property at all times and shall be produced immediately upon the request of the Police Department.



5. Except for administrative/maintenance work, all operations shall cease at the facility not later than 2 a.m., including after hours use. The premises shall reopen to the public no earlier than 8 a.m.
6. The parking lot entrances off Carlos Avenue shall be closed daily at 6 p.m. and shall not reopen until 8 a.m. the following morning. After 6 p.m., all ingress and egress for the property shall occur from Hollywood Boulevard.
7. During the operating hours of the business, the business operator shall provide for each 100 patrons no less than one State-licensed uniformed security guard inside the premises and no less than two security officers in the parking lot - 5951 Hollywood Boulevard. One additional security officer acting as a supervisor shall be on the premises during these same hours. The security guards shall be licensed consistent with State law and Los Angeles Police Commission standards. The security personnel shall be dressed in such a manner as to be readily identifiable to patrons and law enforcement personnel.
8. ~~[DELETED] The business operator shall equip one of the security guards referred to in Condition No. 7 with a cycle for roving patrols of the parking lots and Hollywood Boulevard between Gower Street and Bronson Avenue.~~
9. [Deleted by prior action]
10. The premises shall be maintained as a bona fide restaurant with a kitchen as defined in the Municipal Code. The premises shall provide food service and a menu containing an assortment of foods normally offered in restaurants. The business operator shall inform customers and the general public that the premises maintains a bona fide restaurant, which shall include at the minimum, providing each patron with a menu and posting signs on the premises. The kitchen shall be open and full food service shall be available during all hours that alcoholic beverages are served.
11. Pursuant to Section 12.27.1-E of the Los Angeles Municipal Code, the property owner may initiate a request seeking to modify or eliminate extant Conditions after one year, or if substantial changes in circumstances have occurred.
12. The premises shall not be sublet for nightclub use nor to club promoters.
13. No arcade machine(s) or other mechanical, electronic or video games shall be permitted.
14. The property owner shall comply with all conditions of Case No. ZA 84-0500(CUB), except as modified herein.
15. No public pay phone is permitted on the property unless it is located inside the building.
16. The property owner shall maintain recorded covenants for 120 parking spaces at 5928 and 6009 Hollywood Boulevard, between 8 p.m. and 2:30 a.m., seven days a week for the exclusive use of the property located at 5951 Hollywood Boulevard as long as the latter site is utilized as a restaurant and/or maintains an alcoholic beverage license. The owner shall provide evidence in the Plan Approval application

that these properties are used for the purpose of parking for Florentine Gardens patrons.

17. [RE-IMPOSED] Within 30 days of the effective date of this determination, a covenant acknowledging and agreeing to comply with all the terms conditions established herein shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement, with the conditions of approval attached, must be submitted to the Zoning Administrator for approval before being recorded. Upon recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.
18. A parking fee may be charged to patrons of the facility. Proof of the use of one of the three designated parking areas located at 5951, 5928 and 6009 Hollywood Boulevard shall be provided to patrons. The driver of each vehicle shall be given a receipt/ticket which clearly indicates the date and the number of vehicle occupants. No patron shall be admitted to the facility unless he/she shows a parking receipt/ticket from one of the three parking areas or a current valid California identification showing that he/she lives within a reasonable walking distance of the facility.
19. Prior to opening of the facility and upon closing time each night, the applicant/operator shall post one sign each at the Hollywood Boulevard and Carlos Avenue locations which warns prospective patrons that they may not walk through the Salvation Army property located at 5939-5941 Hollywood Boulevard to access the facility or to access Carlos Avenue. The signs shall also warn patrons that they will not be allowed into the facility unless they have parked at one of the three designated parking areas located at 5951, 5958 and 6009 Hollywood Boulevard and have received a parking receipt/ticket which includes the number of occupants in the vehicle. The address of the specific parking areas shall be provided on each sign. Prior to the opening of the facility each night, the private security guard in charge at the Salvation Army shall be given the name and contact information for the head security guard of the Florentine Gardens' security guards.
20. The business operator shall post a 1-foot by 3-foot metal placard facing Carlos Avenue and adjacent residential properties listing emergency and general telephone numbers for the facility's security personnel during business hours. The contact numbers listed on the placard shall be staffed by security personnel during business hours and shall be connected to an answering machine during non-business hours.

A log of all calls and the disposition of these calls shall be maintained by security personnel for review upon request by the Police Department or the Zoning Administrator.

21. The business operator shall implement the following measures to prevent the consumption of alcoholic beverages by minors:
 - a. Consumption of alcohol or drinking from glass bottles shall be prohibited on the dance floor. A minimum of two warning signs advising of this prohibition shall be posted contiguous to the dance floor.
 - b. [Previously deleted]

- c. The business operator shall use a hand stamp device to designate patrons who are 21 years or older.
22. Representatives and appropriate staff of the business operator shall participate in STAR training conducted by the LAPD and in other periodic training conducted by the LAPD and/or Department of Alcoholic Beverage Control. Security guards shall periodically receive instruction from their employer regarding conflict resolution and observation skills for intoxication and illegal drug use.
23. ~~[DELETED] The business operator shall maintain quarterly records on the premises that identify the dollar volume of food sales and also identify the dollar volume of alcohol sales and make such information available to the Police Department and the Zoning Administrator upon request.~~

The following conditions from ZA 84-0500(CUB):

24. Security regulations include "no passes" and no loitering in the parking lot or surrounding areas.
25. No persons under 18 years of age are permitted inside the Florentine Gardens during operating hours. In this regard, the business operator shall utilize an age verification device to screen drivers licenses and provide evidence of its operation to the Zoning Administrator upon installation. The device shall be maintained in proper working condition at all times. This action runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than the applicant, it is incumbent upon the applicant to advise them regarding the conditions of this grant.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

It shall be unlawful to violate or fail to comply with any requirement or condition imposed by final action of the Zoning Administrator, Board or Council pursuant to this subsection. Such violation or failure to comply shall constitute a violation of this Chapter 1 of the Municipal Code and shall be subject to the same penalties as any other violation of such Chapter. (Section 12.27.1 of the Municipal Code)

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Section 11.00-M of the Municipal Code)

APPEAL PERIOD - EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after DECEMBER 28, 2009, unless an appeal therefrom is filed with the City Planning

Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at www.lacity.org/pln.** Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, the statements made at the public hearing on August 26, 2008, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find as follows:

BACKGROUND

On August 19, 1996, the Zoning Administrator imposed conditions pursuant to LAMC Section 12.27.1 in order to mitigate adverse impacts caused by the operation of the Florentine Gardens restaurant use. Since then, four reviews of the effectiveness of compliance with conditions have been held. The Zoning Administrator's June 7, 2007 determination, the fourth review (ZA 96-0122(RV)(PA4)), determined "that the operation of the Florentine Gardens restaurant is in substantial compliance with the Conditions set forth in the action [May 8, 2005, CF-05-0383] of the City Council and Mayor." The Zoning Administrator's determination deleted and added Conditions for the operation of the use.

Condition No. 11 of the Zoning Administrator's determination of June 7, 2007 states in relevant part:

11. "Pursuant to Section 12.27.1-D ... the property owner may initiate a request seeking to modify or eliminate extant Conditions after one year, or if substantial changes in circumstances have occurred."

The applicant has filed the instant application pursuant to this above Condition.

The subject property is a level, irregular-shaped, interior, through, parcel of land, consisting of approximately 1.47 acres, having a frontage of approximately 146 feet on the north side of Hollywood Boulevard and 217 feet on the south side of Carlos Avenue and has a uniform depth of 449.98 feet. The subject site is developed with the Florentine Gardens Restaurant with dance hall, restaurant, and bar. Parking consists of 120 on-site spaces and two off-site locations, each with 120 spaces under covenant. A 6-foot wrought iron and masonry fence encloses on-site parking. The subject building is two-story with a mezzanine. Occupancy is limited to 1,484 persons.

Properties to the north of Carlos Avenue are zoned R4-2 and developed with a parking lot for the First Presbyterian Church of Hollywood.

Properties to the south of Hollywood Boulevard are zoned C4-1 and developed with one-story commercial buildings, a parking lot occupied by a pre-owned and new auto sales dealership.

Properties to the east of the site are zoned C4-1 and R4-2 and developed with one- to seven-story apartments, commercial buildings, a parking lot and parking structure occupied by the Salvation Army (Erecto De Salvacion) Church and Salvation Army Housing complex.

Properties to the west of the site are zoned C4-1 and R4-2 and are developed with one-story commercial buildings, a parking lot occupied by a vacant theater building.

Hollywood Boulevard, adjoining the property to the south, is a designated Major Highway dedicated to a variable width of 90 to 95 feet and improved with curb, gutter and sidewalk.

Carlos Avenue, adjoining the property to the north, is a Local Street dedicated to a variable width of 50 to 54 feet and improved with curb, gutter and sidewalk.

Previous zoning related actions on the site/in the area include:

Subject Property

Case No. DIR 96-0122(RV)(PA4) - On June 7, 2007, the Zoning Administrator, in a review of compliance with conditions, determined that the operation of the Florentine Gardens, pursuant to corrective Condition No. 1 of Case No. DIR 96-0122 (RV)(PA3), as adopted by City Council on April 27, 2005, and by the Mayor on May 8, 2005, found the operation of in substantial compliance with the Conditions set forth in the action of the City Council and Mayor.

Case No. DIR 96-0122(RV)(PA3) - On February 10, 2005, the Zoning Administrator, in a review of compliance with conditions, determined that the operation of the Florentine Gardens is in partial compliance with the Conditions set forth in the November 26, 2002, determination. The Zoning Administrator required a fourth review of compliance with conditions within 18 months of the effective date of the determination. At its meeting held April 27, 2005, the City Council (CF 05-0383)

resolved to grant in part the applicant's appeal, and modified the Conditions of the February 2005 determination.

Case No. DIR 96-0122(RV)(PA2) - On November 26, 2002, the Zoning Administrator, in a review of compliance with conditions, retained and/or amended the conditions applicable to the operation of Florentine Gardens Nightclub. The Zoning Administrator required a fourth review of compliance with conditions within 18 months of the effective date of the determination.

Case No. ZA 96-0122(RV)(PAD) - On December 7, 1999, pursuant to Condition No. 1 of BZA Case No. 5316 dated December 6, 1996, the Zoning Administrator determined that the operation of the Florentine Gardens Nightclub, located at 5961 Hollywood Boulevard, has been in substantial compliance with the terms and conditions set forth in the determination. Conditions were revised, added and/or retained.

Case No. ZA 96-0122 (RV) - On August 19, 1996, the Zoning Administrator imposed corrective conditions on the operation of the Florentine Gardens Nightclub, located at 5961 Hollywood Boulevard.

Communication for Case No. ZA 96-0122(RV) - On March 22, 1999, the Zoning Administrator mailed a Notice to File Approval of Plans for the third time (previously December 5, 1997 and August 19, 1996) under Condition No. 1. The business operator shall file a Plan Approval application within 90 days of the effective date of this determination to allow for a review of the effectiveness in implementing all conditions of this action and whether the public nuisance problems identified in the "Findings" section of this determination have been eliminated. Failure to file the plan approval may result in revocation of the subject use.

Case No. BZA 5316 - On December 6, 1996, the Board of Zoning Appeals granted appeal in part and sustained the Zoning Administrator's determination on August 1, 1996, which required pursuant to LAMC Sections 12.21-A, 15 and 12.24-J, the modification of operation of the Florentine Gardens Restaurant, dance hall and bar, in order to mitigate the adverse impacts on commercial and residential uses associated with its operation.

Case No. BZA 2754 - Approved May 20, 1980, granted permission for dancing, restaurant, stage and live entertainment with the sale and dispensing of alcoholic beverages.

Case No. ZA 16820 - Authorized a conditional use in 1963 on the involved property for the continued use of public parking in the R5 Zone and a variance for the existing block wall observing a reduced 8-foot landscaped setback from Carlos Avenue.

Surrounding Properties

Case No. ZA 2001-4210(CUX) - On March 15, 2002, the Zoning Administrator approved a request for a Conditional Use permit at 6021 Hollywood Boulevard, to allow a dance hall with live entertainment in an existing 17,208 square-foot television production and recording facility.

Case No. CUB 79-282 - A request for the consumption of alcoholic beverages in connection with a restaurant located at 5917 Hollywood Boulevard to the east, which was approved on October 25, 1979, subject to a provision for adequate parking.

Case No. CUB 78-058 - A similar request as above case located at 5913 Hollywood Boulevard also to the east. This case was approved April 21, 1978 with a provision of off-site parking on the service station site across Bronson Street.

The Hollywood Community Plan designates the subject property for Highway Oriented Commercial and High Residential with corresponding zones of C1, C2, P, R4 and [Q]R5, and Height District No. 1 and 2. Development is limited to a maximum Floor Area Ratio of 1.5:1.

The subject property is within the area of the Hollywood Redevelopment Plan (Ordinance No. 161,202).

PUBLIC HEARING

A public hearing was held on August 26, 2008 at which approximately 20 people were in attendance. Following is a summary of the testimony at the hearing.

The representative for the applicant provided the following testimony:

- Met with LAPD, the Council office and Neighborhood Council and the Salvation Army. As a result of the meeting, the requested has been modified
- No longer requesting modification of Condition 21(a) or 3
- (submitted correspondence)
- (identified on a board the location of parking - 120 spaces and owned by the applicant and additional parking nearby)
- There is another nightclub to the west
- This has been a nightclub since the 1930's
- Applicant has been the owner since the 1970's
- In 1984 the capacity was increased
- Previously this was a 24 hour operation
- (outlined history of the revocation actions and conditions)
- Want modifications for two nights per week
- Asking for operational hours until 6 a.m. Others have until 4 a.m.
- Can't compete with the others especially the Avalon and Palladium
- Asking for the greatest hours possible
- Condition No. 6, the Neighborhood Council was OK until 10 p.m. We want until midnight with a parking attendant and security guard
- Requesting use of the north driveway until midnight 7 days per week
- Condition No. 18 - people park at one venue and walk to others or use the metro, or are dropped off. This is cumbersome and has been removed for others
- Condition No. 19 - Salvation Army no longer has a separate guard. We provide security at the front and rear
- Condition No. 23 was imposed last year.
- Case "California Restaurant Association vs City of Los Angeles" dates to 1997
- Condition No. 4 - Type 47 license
- Currently have people under 21, but can't have alcohol
- Condition No. 4 - have new modification

A speaker provided the following testimony:

- I am in support and that is my personal opinion
- Hollywood Hills West Neighborhood Council hasn't received a presentation
- Opposed to Condition No. 2 because others use promoters
- Condition No. 18 - valid identification. Don't know what is a reasonable walking distance
- Want viable historic buildings maintained
- Support a 4 a.m. closing

The public relations manager for the establishment provided the following testimony:

- Bought by the owner in 1979
- Patrons are primarily Latino and some in the neighborhood don't like Latinos
- False mailing was distributed
- Want parity with others

A speaker provided the following testimony:

- Seeing changes in neighborhood
- ZA felt that relaxing conditions would be a detriment
- LAPD and other neighbors are opposed to relaxing the conditions
- Request no modification
- Condition No. 23 - food and alcohol reporting
- Don't believe this is a restaurant
- Underaged are at the establishment with very little food
- Want continued reporting
- Opposed to patrons under 18

A speaker provided the following testimony:

- (submitted statement)
- Neighborhood Council has no opinion. According to the Supreme Court only people in subareas
- Code doesn't allow bar or restaurant and conditions can't be met
- Best course is to withdraw the requests
- This is not the Florentine Gardens of the 30's
- Did not appeal the conditions
- Can't ensure the area will remain improved with relaxation of the conditions
- Security is an issue

A speaker provided the following testimony:

- I live behind
- Concerned about security and under aged kids
- Concerned that kids will be drinking on the street and wreaking havoc
- Concerned they won't be good neighbors to people living in the area
- Kids yell, scream and vandalize
- Don't want security relaxed
- No concerns about food
- I have been chased down the street

A speaker provided the following testimony:

- Live just north of Franklin
- Florentine is not the Vanguard, which may soon have conditions
- Community worked hard to get the conditions
- Conditions are working and should stay

A speaker provided the following testimony:

- I have visited the Florentine Gardens
- There are no complaints
- Parking is used by tenants
- Parking at the Florentine is adequate
- Have had full food service
- There is an "A" sign inside
- Provides a place for teens to go to
- LAPD presence helps to keep people in line

A speaker provided the following testimony:

- I attend the club because the owner allows events there
- No children under 20 are allowed
- Does good things for the community

A speaker provided the following testimony:

- I was a patron in the 1980's and 90's
- I don't think it fair that this has restriction, but not others
- I allow my son to go to Florentine Gardens because of security and safety
- I think it should be open with the same hours as others
- Don't think kids under 18 will be there at early morning hours

Two representatives of the Los Angeles Police Department, Hollywood Vice provided the following testimony:

- Want the 2 a.m. hour retained
- Site is near residential
- There is noise, loitering, and possible drinking
- Hollywood is over-saturated
- Type 47 establishments can operate until 2 am
- Condition No. 12 - club promoters. There is an over-saturation of clubs and problems in Hollywood
- There are 90 ABC licenses in the BID bounded by Bronson, La Brea, Franklin and Selma
- Between August 2007 and August 2008, there were 133 crimes, not all specific to nightclubs
- Condition No. 8 - okay to remove bike only
- Want a minimum of two security guards in the parking lot
- Two security guards are needed for safety
- Condition No. 4 - want age verification device. Okay with modification during special events, but not during normal business hours.
- Want LAPD notified of special events

- Condition No. 6, okay with 10 p.m. daily, but no other changes (referring to applicant submittal in red)
- Condition No. 18 - unfair to require proof
- Want Condition No. 19 retained
- Condition No. 23 is a mirror of condition. Enforcement is ABC
- Condition No. 4 - We get many calls from parents regarding locations allowing underage to drink et.al.
- Kids park on the streets
- Written numerous citations for on street drinking
- Vanguard now has only a Type 48 license
- It is very difficult to identify someone over 21 after 10 p.m.
- Concerned about under-aged drinking

The representative in rebuttal provided the following testimony:

- Would like to respond in writing
- Not proposing relaxation of security
- Guard ratio required is 1:100 patrons
- In 2007, the 18 month plan approval was removed

At the conclusion of the hearing the record was held open to permit additional written testimony.

Written Correspondence

Letters were received with the following concerns and are summarized below.

The Los Angeles Police Department sent a letter addressing the following conditions:

- Condition No. 5: the residents and guests of two locations would be greatly impacted by noise levels generated by patrons leaving at 6 a.m. Extending the hours would encourage later stays and possibly more drinking, resulting in disturbances.
- Condition No. 12: There is a saturation of ABC licensees, specifically nightclubs in the immediate area impacting the community, traffic and police and fire resources. There are 90 ABC locations in the Hollywood Business Improvement District, 32 are nightclub/restaurant venues. The crime statistics were a factor in forming our opinion. From August 15, 2007 to August 15, 2008 there were 133 reported crimes and/or arrests connected to the 5900 block of Hollywood Boulevard.
- With certain stipulations, we are not opposed to modification of the following: Condition No. 4. Not opposed to admission for persons under 18 during special events and private parties, but not during normal business hours

Correspondence was received from Council District 13 supporting the position of the Los Angeles Police Department.

Salvation Army sent a letter with the following concerns:

- We support the Florentine Gardens if they meet the following condition: have security at both entrances of our complex;
- From January 2008 to summer 2008, I personally observed Florentine Gardens guest parking on our property, throwing trash on the ground; teens give alcohol and

drugs to watch cars; use of our property by men and women as a public restroom. I have had cars towed

- We do not support lowering the age permitted to 15 years of age
- Venue is located next to a group home for troubled youth and teen drop-in center

The Hollywood United Neighborhood Council sent a letter with the following:

- The board does not support changes to Conditions 19 and 23;
- On Condition No. 5 we defer to recommendations of the Los Angeles Police Department
- On Condition No. 6, we propose that the Carlos Avenue entrance close at 10 p.m. in lieu of 6 and a guard be posted until closing;
- On Condition No. 8, we propose the condition be retained until the BID expansion is effective
- On Condition No. 12, we support the request with the added stipulation that "occasionally" be used to define "once or twice a month". We oppose any sublet;
- On Condition No. 18, we proposed use of public transport or proof of parking at another lot;
- On Condition No. 23 we understand these records are required by law
- On Condition No, 4 from ZA 84-0500, we propose that underaged patrons be permitted until 10 p.m. and a limit on decibels for sound

A letter was sent from Toyota of Hollywood stating that the Florentine Gardens has been a good neighbor, causing no problems for their inventory, staff or customers.

A letter was also received from the First Presbyterian Church of Hollywood stating that the Florentine Gardens has been a good neighbor and provided access to their parking lots on Sundays for which the church is appreciative.

Two letters were received from McQuiston Associates outlining code provisions, relevant court decisions and provided the following additional comments:

- Conditions set forth in the June 7, 2007 determination are now inadequate to control the safety of persons and cannot safely be relaxed;
- Noise emanating from the operation disturbs the neighborhood and is a zoning violation
- Hours of operation must be curbed or noise eliminated
- Conditions are not being obeyed. If not obeyed the use must cease
- Roving security patrols assure disturbance reduction. Request to stop roving patrols cannot be shown to prevent return of disturbance
- If another entrance is opened, will reduce effective control of the situation by police and adjacent neighborhood will be affected
- Regarding subletting, if the operator is unclear and variable, there is no relief from disturbance
- Verification for under-age patrons would be improbable and impractical
- Glass bottles etc., on the dance floor would result in severe cuts or public hysteria
- Regarding the request to not continue as a restaurant, there are no provisions to permit discontinuance under the terms of operation
- Terms limiting passes controls loiterers, drinking outside and is critical for the neighborhood
- The neighborhood has been safer under the terms imposed

A second letter identified the following concerns:

- Regarding an appeal, no part of the June 7, 2007 determination, no law permits an appeal after the limitation date which occurred on or about June 18, 2007
- Applicant may file a new application but may not file under the same case which was finalized because the only avenue for reopening was stricken in that determination
- Application for variance must be adjudicated under a separate case
- A supporter testified that under-age persons attend the premises already which is a violation of the law. Corrective action must be taken
- Applicant has requested "equality" with other venues, but other venues are not in the same zone
- Variance is not justified

Four letters were received from neighbors in the area with the following concerns:

- I have no issue with a club in the area, however over the past years the residents of the area have seen how poorly the Florentine Gardens has maintained its relations with the neighborhood - refusing to corral inebriated patrons, providing lax security and disappearing when neighbors express displeasure
- Clientele does not respect the neighborhood
- Taking responsibility for even parking has failed
- Despite parking lot, patrons continue to park on Tamarind and Carlos, forcing resident to park several blocks away
- There has been urinating in the street and on cars
- There is no one living in the neighborhood that has not been negatively affected
- Restrictions on the club should be enhanced not lifted
- Hours should not be extended
- Club has shown disdain for the community
- Clientele swarm our streets, drinking, fighting loudly and damaging cars
- My car has been broken into regularly
- Music is so loud it keeps us awake
- Other clubs compete for parking
- Problems with club that we are now dealing with are on a regular basis and extremely problematic. These include loitering, parking, broken glass, drinking in public, street racing and loud obnoxious behavior into the early morning hours
- The nightclub is the singular contributor to what I feel is the worst state the neighborhood has had to endure
- Please do not allow later or more frequent hours
- Lack of security presence during operating hours is more apparent
- Patrons drink outside to avoid pricy drinks or "last call" drinks

A letter was received from Casa de la Cultura de El Salvador supporting removal of restrictions, and stating that Florentine Gardens is over-regulated, thereby resulting in a loss of business.

Alianza Hondurena de Los Angeles and El Rescate sent letters in support of the request.

One hundred and six form letters of support were received

REVIEW OF COMPLIANCE

1. The business operator shall file a Plan Approval application 18 months from the effective date of this determination to allow for a review of the effectiveness in implementing the Conditions and to determine whether additional and more restrictive or, fewer conditions need to be considered for the operation of the facility or whether revocation is appropriate. Failure to file the Plan Approval application may lead to revocation of the use.

Zoning Administrator's Comment: The Plan Approval application was filed on December 19, 2007. The due date for the filing was December 3, 2007. A new plan approval is required as the venue still results in problems for the surrounding neighborhood. This includes noise, public drinking and public urination. The new plan approval shall be filed within 12 months of the effective date of this determination.

2. All other use, height and area regulations of the Municipal Code and all other applicable governmental/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are specifically varied or required.

Zoning Administrator's Comment: There was no testimony of non-compliance.

3. The authorized use shall be conducted at all times with due regard for the character of the surrounding neighborhood. The right is reserved to the Zoning Administrator to impose additional corrective Conditions if deemed necessary for the protection of the neighborhood.

Zoning Administrator's Comment: Testimony was provided to the record, that there are public disturbances resulting from the operation and the management has not been proactive in addressing the concerns.

4. These Conditions shall be retained on the property at all times and shall be produced immediately upon the request of the Police Department.

Zoning Administrator's Comment: The staff investigator upon site inspection requested a copy of the conditions and the owner presented a copy of the July 7, 2007, Associate Zoning Administrator determination and conditions.

5. Except for administrative/maintenance work, all operations shall cease at the facility not later than 2 a.m., including after hours use. The premises shall reopen to the public no earlier than 8 a.m.

Zoning Administrator's Comment: The applicant requests modification of the condition, with a new closing hour of 4 a.m. closing time daily. Testimony provided at the hearing and in written testimony indicates there are problems which adversely affect the adjacent residential. This includes noise, loitering and trash. The Los Angeles Police Department also noted the proximity to residential uses and the problems observed. Until the applicant can show that the operations at the facility are not a problem for the residents nor Police, the requested modification cannot be accommodated.

6. The parking lot entrances off Carlos Avenue shall be closed daily at 6 p.m. and shall not reopen until 8 a.m. the following morning. After 6 p.m., all ingress and egress for the property shall occur from Hollywood Boulevard.

Zoning Administrator's Comment: A 6-foot masonry wrought iron fence is located across the driveway on Carlos Avenue blocking entry into the parking lot. During site visit by the staff investigator, the gates were closed thereby blocking access. After 6 p.m. all ingress and egress is provided from Hollywood Boulevard. While the applicant has requested deletion of condition, the request has been denied. Residential uses are located along Tamarind, located to the northeast of the parking lot. As residents have been adversely affected by ongoing disturbances from the club, opening an additional driveway will only increase the problems, including additional traffic.

7. During the operating hours of the business, the business operator shall provide for each 100 patrons no less than one State-licensed uniformed security guard inside the premises and no less than two security officers in the parking lot – 5951 Hollywood Boulevard. One additional security officer acting as a supervisor shall be on the premises during these same hours. The security guards shall be licensed consistent with State law and Los Angeles Police Commission standards. The security personnel shall be dressed in such a manner as to be readily identifiable to patrons and law enforcement personnel.

Zoning Administrator's Comment: The staff investigator noted in his report that he was informed by the manager that the operation employs one guard per 100 patrons. Staff requested a security contract and the representative stated that a current security contract will be furnished at the public hearing. A security plan was received in the Office of Zoning Administration on August 22, 2008. The plan outlines hours of security personnel arrival and departure with a minimum of one guard per 100 patrons; minimum of 15 security guards on Friday and Saturdays regardless of occupancy. Plan also identifies location of security personnel and attire.

8. The business operator shall equip one of the security guards referred to in Condition No. 7 with a cycle for roving patrols of the parking lots and Hollywood Boulevard between Gower Street and Bronson Avenue.

Zoning Administrator's Comment: There was no testimony provided of non-compliance. The applicant has requested deletion of the condition. The LAPD has no opposition to the deletion of the condition which was imposed as a security measure. Therefore, the condition has been deleted.

9. Deleted by prior action

10. The premises shall be maintained as a bona fide restaurant with a kitchen as defined in the Municipal Code. The premises shall provide food service and a menu containing an assortment of foods normally offered in restaurants. The business operator shall inform customers and the general public that the premises maintains a bona fide restaurant, which shall include at the minimum, providing each patron with a menu and posting signs on the premises. The kitchen shall be open and full food service shall be available during all hours that alcoholic beverages are served.

Zoning Administrator's Comment: The premise is operated as a nightclub and maintains food service. Food is served during the hours of alcohol service from 6 p.m. - 2 a.m. Staff observed the kitchen facilities.

- 11 Pursuant to Section 12.27.1-E of the Los Angeles Municipal Code, the property owner may initiate a request seeking to modify or eliminate extant Conditions after one year, or if substantial changes in circumstances have occurred.

Zoning Administrator's Comment: The applicant filed the request for modification of conditions on December 3, 2007.

12. The premises shall not be sublet for nightclub use nor to club promoters.

Zoning Administrator's Comment: There was no testimony of non-compliance. The applicant has requested modification of the condition to permit operation of the facility by club promoters. The Los Angeles Police Department is opposed to the request due to the over saturation of ABC licenses and reported crimes. The LAPD has concerns that this problem will be exacerbated by allowing promoters to operate the venue. At the hearing, concerns were expressed by nearby residents of continuing problems with the operation of the facility.

13. No arcade machine(s) or other mechanical, electronic or video games shall be permitted.

Zoning Administrator's Comment: The staff investigator found no arcade games at the facility.

14. The property owner shall comply with all conditions of Case No. ZA 84-0500(CUB), except as modified herein.

Zoning Administrator's Comment: Some violations of the conditions herein has occurred and are noted in this determination.

15. No public pay phone is permitted on the property unless it is located inside the building.

Zoning Administrator's Comment: The staff investigator found no pay phones on the exterior of the building.

16. The property owner shall maintain recorded covenants for 120 parking spaces at 5928 and 6009 Hollywood Boulevard, between 8 p.m. and 2:30 a.m., seven days a week for the exclusive use of the property located at 5951 Hollywood Boulevard as long as the latter site is utilized as a restaurant and/or maintains an alcoholic beverage license. The owner shall provide evidence in the Plan Approval application that these properties are used for the purpose of parking for Florentine Gardens patrons.

Zoning Administrator's Comment: A covenant for 120 parking spaces (AFF 00-0084334) was recorded on January 20, 2000, and attached to the previous file. Parking is located at 5928 and 6009 Hollywood Boulevard.

17. Within 30 days of the effective date of this determination, a covenant acknowledging and agreeing to comply with all the terms conditions established herein shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement, with the conditions of approval attached, must be submitted to the Zoning Administrator for approval before being recorded. Upon recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

Zoning Administrator's Comment: A covenant was recorded on July 17, 2007 (LA County No. 2007169070) and is attached to Case No. DIR 96-0122(RV)(PA4). A new covenant is required for the modified conditions.

18. A parking fee may be charged to patrons of the facility. Proof of the use of one of the three designated parking areas located at 5951, 5928 and 6009 Hollywood Boulevard shall be provided to patrons. The driver of each vehicle shall be given a receipt/ticket which clearly indicates the date and the number of vehicle occupants. No patron shall be admitted to the facility unless he/she shows a parking receipt/ticket from one of the three parking areas or a current valid California identification showing that he/she lives within a reasonable walking distance of the facility.

Zoning Administrator's Comment: Staff could not verify during site investigation full compliance with the condition. The applicant has requested deletion of the condition. At the hearing the applicant's representative stated that people park at one venue and walk to others or use the metro, or are dropped off and the condition is cumbersome and has been removed for others. While some patrons may walk from venue to venue, if they are parking in any lot, a parking receipt/ticket should be issued from those parking lots. The intent of the condition is to discourage patrons from parking on the surrounding streets. The applicant could have provided an alternative to ensure that patrons use valid parking lots. Without assurance, the condition is necessary to protect the surrounding residential uses. The condition has not been modified.

19. Prior to opening of the facility and upon closing time each night, the applicant/operator shall post one sign each at the Hollywood Boulevard and Carlos Avenue locations which warns prospective patrons that they may not walk through the Salvation Army property located at 5939-5941 Hollywood Boulevard to access the facility or to access Carlos Avenue. The signs shall also warn patrons that they will not be allowed into the facility unless they have parked at one of the three designated parking areas located at 5951, 5958 and 6009 Hollywood Boulevard and have received a parking receipt/ticket which includes the number of occupants in the vehicle. The address of the specific parking areas shall be provided on each sign. Prior to the opening of the facility each night, the private security guard in charge at the Salvation Army shall be given the name and contact information for the head security guard of the Florentine Gardens' security guards.

Zoning Administrator's Comment: The applicant requests modification of the condition deleting the provision requiring notification to the guard at the Salvation Army. The Salvation Army sent a letter supporting the business if security are posted a both entrances of the Salvation Army complex to prevent Florentine Gardens patrons from using their property for a parking lot, restaurant and

bathroom. Although the representative at the hearing stated that the business patrols the Salvation Army complex, the security plan provided to the file does not identify security personnel on nor at the Salvation Army complex. The condition has not been modified.

20. The business operator shall post a 1-foot by 3-foot metal placard facing Carlos Avenue and adjacent residential properties listing emergency and general telephone numbers for the facility's security personnel during business hours. The contact numbers listed on the placard shall be staffed by security personnel during business hours and shall be connected to an answering machine during non-business hours. A log of all calls and the disposition of these calls shall be maintained by security personnel for review upon request by the Police Department or the Zoning Administrator.

Zoning Administrator's Comment: The investigative staff observed the required 1-foot by 3-foot metal placard facing Carlos Avenue and adjacent residential properties listing an emergency telephone number for the facility's security personnel during business hours. Staff requested a log of calls to LAPD be provided at the public hearing. No log was provided.

21. The business operator shall implement the following measures to prevent the consumption of alcoholic beverages by minors:
- a. Consumption of alcohol or drinking from glass bottles shall be prohibited on the dance floor. A minimum of two warning signs advising of this prohibition shall be posted contiguous to the dance floor.
 - b. Previously deleted.
 - c. The business operator shall use a hand stamp device to designate patrons who are 21 years or older.

Zoning Administrator's Comment: The staff investigator observed signs advising patrons that no alcohol is permitted on the dance floor. Although the applicant initially requested deletion of Condition 21(a), the request was withdrawn at the hearing.

22. Representatives and appropriate staff of the business operator shall participate in STAR training conducted by the LAPD and in other periodic training conducted by the LAPD and/or Department of Alcoholic Beverage Control. Security guards shall periodically receive instruction from their employer regarding conflict resolution and observation skills for intoxication and illegal drug use.

Zoning Administrator's Comment: A letter was received from the Detective Support and Vice Division advising of STAR training on January 22, 2008 for staff members.

23. The business operator shall maintain quarterly records on the premises that identify the dollar volume of food sales and also identify the dollar volume of alcohol sales and make such information available to the Police Department and the Zoning Administrator upon request.

Zoning Administrator's Comment: The applicant has requested deletion of the condition with the justification that the ratio of food to alcohol is under the purview of the State Department of Alcoholic Beverage Control. As the State will require the same condition, the condition has been deleted.

The following conditions from ZA 84-0500(CUB) were retained under the prior action. Following is a review of compliance with the conditions:

24. Security regulations include "no passes" and no loitering in the parking lot or surrounding areas.

Zoning Administrator's Comment: No testimony was provided of violation of the portion of the condition addressing "passes". Testimony was provided of loitering in the parking lot. The applicant had requested modification of the condition however, the request was withdrawn.

25. No persons under 18 years of age are permitted inside the Florentine Gardens during operating hours. In this regard, the business operator shall utilize an age verification device to screen drivers licenses and provide evidence of its operation to the Zoning Administrator upon installation. The device shall be maintained in proper working condition at all times. This action runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than the applicant, it is incumbent upon the applicant to advise them regarding the conditions of this grant.

Zoning Administrator's Comment: No violation of the condition was identified. The applicant has requested deletion of the condition. The subject facility, although identified as a restaurant with alcohol service, operates as a dance hall. Problems were identified with the operation, which resulted in problems for the surrounding uses. Opening the dance club to minors under the age of 18 is of concern, may result in additional problems.

On May 25, 1989, Ordinance No. 164,749 became effective, establishing procedures for the modification, discontinuance or removal of use, building or structure that constitutes a public nuisance or endangers the public health or safety or violates any provision of City, State, or Federal statutes or ordinance. That ordinance became Section 12.21-A, 15 of the Los Angeles Municipal Code.

On October 27, 1997, Ordinance No. 171,740 became effective, amending the language in the earlier ordinance to become LAMC Code section 12.27.1.

Prior to an action by the Zoning Administrator requiring that a use be discontinued, it must be found that prior governmental efforts to eliminate the problems associated with the use have failed and the owner or lessee has failed to demonstrate to the satisfaction of the Zoning Administrator a willingness and ability to eliminate the problems associated with the use.

FINDINGS

Pursuant to Condition No. 11 of DIR 96-0122(RV)(PA4), the operator was required to file for a review of compliance with the conditions imposed for the operation of the Florentine Gardens.

The operation of the Florentine Gardens continues to present problems for the adjacent residential neighborhood. Testimony was provided of noise, drinking, public urination, parking on residential streets by patrons of the business and loitering. Prior reviews noted compliance, however, at the time of this review, there were substantial problems. Violations of Conditions 3, 14, 20, 24, and 25 were noted herein. In addition, to resolving the disturbances resulting from the operation, the applicant must be more diligent in compliance with the conditions. A responsibly operated venue for young people can be compatible with the surrounding community and provide a safe entertainment venue when all actions are taken. It is expected at the next review, required within 12 months, to see a greatly improved operation.

It is the purpose of these proceedings under Ordinance No. 171,740 to provide a just and equitable method to be cumulative and in addition to any other remedy available for the abatement of certain public nuisance activities. **Failure to comply with the conditions cited herein will put you at risk of revocation and the issue of an order directing the discontinuance of the use located at 5951 Hollywood Boulevard.**

It is further determined that the instant action by the Zoning Administrator is in compliance with Section 12.27.1 of the Municipal Code and has been conducted so as not to impair the constitutional right of any person. The owner/operator of the business has been afforded the opportunity to review the file both in advance of and after the hearing which was duly noticed and testify and respond to the allegations concerning the impacts of the operation. Further, the conditions imposed are not so onerous as to prevent the viable operation of the business.

GAIL GOLDBERG
Director of Planning



PATRICIA BROWN
Associate Zoning Administrator
Direct Telephone No. (213) 978-1306

PB:lmc

cc: Councilmember Eric Garcetti
Thirteenth District
Adjoining Property Owners

MICHAEL LOGRANDE
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

GARY BOOHER
PATRICIA BROWN
R. NICOLAS BROWN
SUE CHANG
ANIK CHARRON
LARRY FRIEDMAN
DANIEL GREEN
LOURDES GREEN
ERIC RITTER
MICHAEL S.Y. YOUNG

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
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S. GAIL GOLDBERG, AICP
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June 7, 2007

Kenneth Mackenzie (A)(O)
Florentine Gardens
5951 Hollywood Boulevard
Los Angeles, CA 90028

David Moss (R)
Moss & Associates
613 Wilshire Boulevard, #105
Santa Monica, CA 90401

CASE NO. DIR 96-0122(RV)(PA4)
REVIEW OF CONDITIONS
5951 Hollywood Boulevard
Hollywood Planning Area
Zone : C4-1 and R4-2
D. M. : 148.5A191
C.D. : 13
CEQA : ENV 2004-4835-CE
Fish and Game: Exempt
Legal Description: Arb 2, Fr. Lot 7,
Brokaw Tract

Department of Building and Safety

Pursuant to corrective Condition No. 1 of Case No. DIR 96-0122(RV)(PAD)(PA3), as adopted by City Council on April 27, 2005, and by the Mayor on May 8, 2005, I hereby **DETERMINE**:

that the operation of the Florentine Gardens restaurant, located at 5951 Hollywood Boulevard, is in substantial compliance with the Conditions set forth in the action of the City Council and Mayor.

I hereby **DELETE** corrective Condition No. 1 thereof, **RETAIN** all of the other corrective Conditions, and add a new Condition No. 23 to read as follows:

1. ~~The business operator shall file a Plan Approval application 18 months from the effective date of this determination to allow for a review of the effectiveness in implementing the Conditions and to determine whether additional and more restrictive or, fewer conditions need to be considered for the operation of the facility or whether revocation is appropriate. Failure to file the Plan Approval application may lead to revocation of the use.~~
2. All other use, height and area regulations of the Municipal Code and all other applicable governmental/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are specifically varied or required.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding neighborhood. The right is reserved to the Zoning Administrator



- to impose additional corrective Conditions if deemed necessary for the protection of the neighborhood.
4. These Conditions shall be retained on the property at all times and shall be produced immediately upon the request of the Police Department.
 5. Except for administrative/maintenance work, all operations shall cease at the facility not later than 2 a.m., including after hours use. The premises shall reopen to the public no earlier than 8 a.m.
 6. The parking lot entrances off Carlos Avenue shall be closed daily at 6 p.m. and shall not reopen until 8 a.m. the following morning. After 6 p.m., all ingress and egress for the property shall occur from Hollywood Boulevard.
 7. During the operating hours of the business, the business operator shall provide for each 100 patrons no less than one State-licensed uniformed security guard inside the premises and no less than two security officers in the parking lot - 5951 Hollywood Boulevard. One additional security officer acting as a supervisor shall be on the premises during these same hours. The security guards shall be licensed consistent with State law and Los Angeles Police Commission standards. The security personnel shall be dressed in such a manner as to be readily identifiable to patrons and law enforcement personnel.
 8. The business operator shall equip one of the security guards referred to in Condition No. 7 with a cycle for roving patrols of the parking lots and Hollywood Boulevard between Gower Street and Bronson Avenue.
 9. [Previously deleted]
 10. The premises shall be maintained as a bonafide restaurant with a kitchen as defined in the Municipal Code. The premises shall provide food service and a menu containing an assortment of foods normally offered in restaurants. The business operator shall inform customers and the general public that the premises maintains a bonafide restaurant, which shall include at the minimum, providing each patron with a menu and posting signs on the premises. The kitchen shall be open and full food service shall be available during all hours that alcoholic beverages are served.
 11. Pursuant to Section 12.27.1-D of the Los Angeles Municipal Code, the property owner may initiate a request seeking to modify or eliminate extant Conditions after one year, or if substantial changes in circumstances have occurred.
 12. The premises shall not be sublet for nightclub use nor to club promoters.
 13. No arcade machine(s) or other mechanical, electronic or video games shall be permitted.
 14. The property owner shall comply with all conditions of Case No. ZA 84-0500(CUB), except as modified herein.

15. No public pay phone is permitted on the property unless it is located inside the building.
16. The property owner shall maintain recorded covenants for 120 parking spaces at 5928 and 6009 Hollywood Boulevard, between 8 p.m. and 2:30 a.m., seven days a week for the exclusive use of the property located at 5951 Hollywood Boulevard as long as the latter site is utilized as a restaurant and/or maintains an alcoholic beverage license. The owner shall provide evidence in the Plan Approval application that these properties are used for the purpose of parking for Florentine Gardens patrons.
17. Within 30 days of the effective date of this determination, a covenant acknowledging and agreeing to comply with all the terms conditions established herein shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement, with the conditions of approval attached, must be submitted to the Zoning Administrator for approval before being recorded. Upon After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.
18. A parking fee may be charged to patrons of the facility. Proof of the use of one of the three designated parking areas located at 5951, 5928 and 6009 Hollywood Boulevard shall be provided to patrons. The driver of each vehicle shall be given a receipt/ticket which clearly indicates the date and the number of vehicle occupants. No patron shall be admitted to the facility unless he/she shows a parking receipt/ticket from one of the three parking areas or a current valid California identification showing that he/she lives within a reasonable walking distance of the facility.
19. Prior to opening of the facility and upon closing time each night, the applicant/operator shall post one sign each at the Hollywood Boulevard and Carlos Avenue locations which warns prospective patrons that they may not walk through the Salvation Army property located at 5939-5941 Hollywood Boulevard to access the facility or to access Carlos Avenue. The signs shall also warn patrons that they will not be allowed into the facility unless they have parked at one of the three designated parking areas located at 5951, 5958 and 6009 Hollywood Boulevard and have received a parking receipt/ticket which includes the number of occupants in the vehicle. The address of the specific parking areas shall be provided on each sign. Prior to the opening of the facility each night, the private security guard in charge at the Salvation Army shall be given the name and contact information for the head security guard of the Florentine Gardens' security guards.
20. The business operator shall post a 1-foot by 3-foot metal placard facing Carlos Avenue and adjacent residential properties listing emergency and general telephone numbers for the facility's security personnel during business hours. The contact numbers listed on the placard shall be staffed by security personnel during business hours and shall be connected to an answering machine during non-business hours.

A log of all calls and the disposition of these calls shall be maintained by security personnel for review upon request by the Police Department or the Zoning Administrator.

21. The business operator shall implement the following measures to prevent the consumption of alcoholic beverages by minors:
 - a.. Consumption of alcohol or drinking from glass bottles shall be prohibited on the dance floor. A minimum of two warning signs advising of this prohibition shall be posted contiguous to the dance floor.
 - b.. [Previously deleted]
 - c. The business operator shall use a hand stamp device to designate patrons who are 21 years or older.
22. Representatives and appropriate staff of the business operator shall participate in STAR training conducted by the LAPD and in other periodic training conducted by the LAPD and/or Department of Alcoholic Beverage Control. Security guards shall periodically receive instruction from their employer regarding conflict resolution and observation skills for intoxication and illegal drug use.
23. The business operator shall maintain quarterly records on the premises that identify the dollar volume of food sales and also identify the dollar volume of alcohol sales and make such information available to the Police Department and the Zoning Administrator upon request.

NEW
6-7-07

Conditions from ZA 84-0500(CUB):

3. Security regulations include "no passes" and no loitering in the parking lot or surrounding areas.
4. No persons under 18 years of age are permitted inside the Florentine Gardens during operating hours. In this regard, the business operator shall utilize an age verification device to screen drivers licenses and provide evidence of its operation to the Zoning Administrator upon installation. The device shall be maintained in proper working condition at all times.

TRANSFERABILITY

This action runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

"A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its Conditions. The violation of any valid Condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code."

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD - EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after JUNE 18, 2007, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted.

Forms are available on-line at www.lacity.org/pln. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

INDEMNIFICATION

The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, and the statements made at the public hearing on May 8, 2007, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that there is cause for continuation of Conditions based upon the provisions of Section 12.27.1 of the Municipal Code as established by the following facts:

BACKGROUND

The property is a level, irregular-shaped, interior, through, parcel of land, consisting of 1.47 acres, having a frontage of 146 feet on the north side of Hollywood Boulevard, 217 feet on the south side of Carlos Avenue, and a depth of 450 feet. The site is developed with a restaurant known as Florentine Gardens. The site is improved with a building one-story in height with a mezzanine, measuring 120 feet by 173 feet, consisting of a restaurant, dance floor, and stage. There are 120 on-site parking spaces enclosed by a masonry and metal picket fence 6 feet in height. Parking provided off-site through a required covenant provides an additional 120 parking spaces. Access to the site is permitted on Carlos Avenue between the hours of 8 a.m. and 6 p.m. only; access via Hollywood Boulevard is permitted during all operating hours.

Adjoining properties on the north side of Carlos Avenue are zoned R4-2 and are developed with a surface parking lot serving the First Presbyterian Church of Hollywood. Adjoining properties on the south side of Hollywood Boulevard are zoned C4-1 and are developed with one-story commercial buildings, and a new and used car parking lot associated with an automobile dealership. Adjoining properties to the east are zoned C4-1 and R4-2 and are developed with one- to seven-story apartments, commercial buildings, a surface parking lot and a parking structure accessory to the Salvation Army (Erecto De Salvacion) Church and Salvation Army housing complex. Adjoining properties to the west are zoned C4-1 and R4-2 and are developed with one-story commercial buildings, and a surface parking lot serving a vacant theater building.

Previous zoning related actions on the site include:

Case No. DIR 96-0122(RV)(PA3) - On February 10, 2005, the Zoning Administrator determined that there was partial compliance with the corrective Conditions

previously established for the continued operation of the Florentine Gardens restaurant. The matter was appealed by the business owner. On April 27, 2005, the City Council amended and adopted a report from its Planning and Land Use Management Committee regarding an appeal of the Zoning Administrator's determination. On May 8, 2005, the Mayor concurred in the action of the Council.

Case No. ZA 96-0122(RV)(PAD)(PA2) - On November 26, 2002, pursuant to Condition No. 1 of Case No. ZA 96-0122(RV)(PAD) dated December 14, 2000, the Zoning Administrator determined that the operation of Florentine Gardens has been in substantial compliance with the Conditions set forth in the underlying determination. Conditions were revised, added and/or retained.

Case No. ZA 96-0122(RV)(PAD) - On December 14, 2000, pursuant to Condition No. 1 of Case No. ZA 96-0122(RV)(PAD) dated December 7, 1999, the Zoning Administrator determined that the operation of Florentine Gardens was in substantial compliance with the Conditions set forth in the underlying determination. Conditions were revised, added and/or retained.

Case No. ZA 96-0122(RV)(PAD) - On December 7, 1999, pursuant to Condition No. of BZA Case No. 5316 dated December 6, 1996, the Zoning Administrator determined that the operation of Florentine Gardens was in substantial compliance with the terms and Conditions set forth in the underlying determination. Conditions were revised, added and/or retained.

Case No. ZA 96-0122(RV) - On December 5, 1997, and on March 22, 1999, the Zoning Administrator mailed a Notice to File Approval of Plans as required by Condition No. 1: "The business operator shall file a Plan Approval application within 90 days of the effective date of this determination to allow for a review of the effectiveness in implementing all conditions of this action and whether the public nuisance problems identified in the "Findings" section of this determination have been eliminated. Failure to file the plan approval may result in revocation of the subject use."

Case No. BZA 5316 - On December 6, 1996, the Board of Zoning Appeals granted an appeal, in part, and sustained the Zoning Administrator's determination dated August 1, 1996, which required pursuant to LAMC Sections 12.21-A, 15 and 12.24-J, the modification of operation of the Florentine Gardens restaurant, dance hall and bar, in order to mitigate the adverse impacts on commercial and residential uses associated with its operation.

Case No. ZA 96-0122(RV) - On August 19, 1996, the Zoning Administrator required the modification of the operation of the Florentine Gardens restaurant, dance hall and bar, in order to mitigate adverse impacts on commercial and residential uses associated with its operation.

Case No. BZA 2754 - On May 20, 1980, the Board of Zoning Appeals granted an appeal to grant a conditional use for public dancing, restaurant, stage and live entertainment with the sale and dispensing of alcoholic beverages.

Case No. ZA 16820 - The Zoning Administrator authorized a conditional use in 1963 to permit the continued use of public parking in the R5 Zone and a variance for the existing block wall observing a reduced 8-foot landscaped setback from Carlos Avenue.

Public Hearing

On May 8, 2007, at 11:20 a.m., the Zoning Administrator conducted a public hearing regarding this matter at City Hall, Room 1020. The purpose of the hearing was to obtain testimony of the owner of the property and business plus affected and/or interested persons regarding the operation of a restaurant doing business as Florentine Gardens. Following the hearing the Zoning Administrator has the authority to require the discontinuance of the use or impose additional corrective Conditions regarding the use of the restaurant in order to mitigate any land use impacts caused by its use. The public was invited to submit written comments. After explaining the procedures to be followed during the course of the hearing, the Zoning Administrator opened the hearing to public testimony.

Speaking first was David Moss, on behalf of the applicant. He requested that various Conditions be modified. The Zoning Administrator advised that there was no public notice indicating that the applicant sought any changes and that the requests for changes at the time of the hearing constituted an absence of due process protection to those notified of the hearing. After some discussion, the Zoning Administrator allowed the applicant to articulate the proposed changes to the extant Conditions. For Condition No. 5, the applicant wants a 6 a.m. closing time in lieu of 2 a.m. For Condition No. 6, the applicant wants to allow Carlos access without restrictions after 6 p.m. The applicant wants Condition No. 21.a deleted so that the consumption of beverages can occur on the dance floor in lieu of the prohibition of such behavior. The applicant wants Condition No. 21.b deleted so that there is no requirement for color-coded beverage containers that distinguish between alcoholic and non-alcoholic beverages.

Bill Hooey, a public relations representative of the applicant, requested that this restaurant be treated like other restaurants.

Zelene Cardenas, a representative of the United Coalition East Prevention Project and self-defined "clubgoer" since the 1980s, testified that she did not know that the facility was a restaurant. All she ever experienced was a nightclub operation. On some nights there was a required entrance fee of \$16. She suggested the Zoning Administrator consider establishing a Condition requiring that the business operator show evidence of its food versus alcohol sales figures as is commonly required for restaurants. She also played aloud the recorded message one hears when calling the facility by phone where it plainly indicates a cover charge of \$15 and coming attractions, and a minimum age requirement of 18 years of age. These features do not reflect restaurant use.

Officer Michael Rose of the Hollywood Police Department Vice Unit, stated that the Department has no objection to deleting Condition No. 1. which requires a plan approval application every 18 months. The corrective Conditions have impacted the ongoing operation of the restaurant for the better. He was not aware prior to the hearing of the

changes proposed by the applicant. The only venues where the Department has recommended a 6 a.m. closing time are those whose operating hours were grandfathered in. Some restaurants have 4 a.m. closing times but this does not extend to facilities that maintain a nightclub style operation. Staggered closing hours has had a positive affect reducing the incidence of driving under the influence. Condition No. 21 precludes slipping and fighting on the dance floor. Color-coded containers do not preclude patrons from pouring an alcoholic beverage from an adult into a minor's container but the request of the applicant would make abuse all the more easy. The Department opposes the changes requested by the applicant other than the deletion of Condition No. 1. The City cannot impose a 60/40 or any other split between food and alcohol although this can be required by the State Department of Alcoholic Beverage Control. A restaurant requires that the kitchen must remain open and food must be available and food preparation must be going on throughout business hours. There has been a dramatic decrease in crime levels since the Conditions were established.

Jane Berner, representing Councilmember Eric Garcetti of the Thirteenth District, testified in support of deleting Condition No.1. Her office has received no recent complaints about the operation of the restaurant. The Zoning Administrator should retain the other Conditions. Changes to the Conditions can be appropriately considered through a properly noticed hearing. She is not aware of 6 a.m. closing hours of other restaurants.

Mr. Moss, on rebuttal, stated that the requests signify that a dialogue has begun.

The Zoning Administrator advised that the hearing was closed and that a determination would be forthcoming wherein Condition No. 1 would be deleted with the remaining Conditions retained.

Review of Conditions

The following analysis and conclusions are based upon the summary report of staff's investigation, as well as testimony at the May 8, 2007, public hearing, the contents of the application, and other correspondence and materials in the case file. Overall, the restaurant has not caused significant and repeated complaints from the public nor police intervention since the previous review. This is good. The Conditions are meeting the objective they were intended to accomplish - to allow the business to continue without negatively impacting the neighborhood and maintaining a reasonably safe environment for patrons of the establishment.

The zoning investigator report identifies each of the corrective Conditions and his basis for concluding that compliance was achieved in each instance. The Zoning Administrator by reference concurs in those observations. A few corrections are in order, however:

- A. The due date for filing the instant Plan Approval application (Condition No. 1) was November 10, 2006, not 2009.
- B. Condition No. 21a was amended by Council on April 27, 2005, to read as follows: "Consumption of alcohol or drinking from glass bottles shall be prohibited on the

dance floor. A minimum of two warning signs advising of this prohibition shall be posted contiguous to the dance floor."

C. Condition No. 21b was deleted by Council on April 27, 2005.

FINDINGS

Based upon the information submitted to the case file and the testimony obtained at the May 8, 2007, public hearing on this matter, the Zoning Administrator finds that the corrective Conditions set forth by the City Council at its April 27, 2005, meeting on this matter are being implemented and are an effective deterrent to previous public nuisance activities on and about the property. Failure to retain the extant Conditions would jeopardize or adversely affect the public health, peace or safety of restaurant patrons and the public living in the vicinity, would adversely impact nearby uses - both residential and philanthropic, would likely result in the violation of numerous city and state regulations having to do with loitering, alcoholic beverage consumption, and physical safety, and would constitute the recurrence of a public nuisance. In the previous review of compliance, the Zoning Administrator found that there was ample evidence in the public record to conclude that violations of several corrective Conditions had routinely occurred including the operation of the facility as a bar and not as a restaurant - a violation of State Department of Alcoholic Beverage Control regulations, provision of an inadequate number of required security personnel, the questionable use of the parking location at 5298 Hollywood Boulevard, and the failure to record a required covenant acknowledging the corrective Conditions established in 2002.

In addition, one of the arrest reports in that public record for driving under the influence involved a suspect with a blood alcohol count double the legal limit. While the arrest was limited to this individual, the Zoning Administrator believed equally culpable was the bartender or waitress who continued to allow this individual, obviously intoxicated, to consume the quantity of alcohol that he did. In some respects this is not surprising given the percentage of alcohol sales to total sales at this restaurant exceeding 50% for 2004.

The continued requirement that the owner file another application to review compliance with Conditions reflected the failure to comply with the Conditions and the lackadaisical and belated response to corroborate alleged compliance, and the need to provide ongoing protection to surrounding residents.

The deletion of Condition No.1 is based upon the currently compliant operation of the restaurant with respect to the Conditions in general and significant reduction in police activity at this location. In the event the Police Department makes an increasing number of arrests, if calls for service increase, if the public identifies a lack of compliance, or if the State Department of Alcoholic Beverage Control suspends the operator's license or issues fines or other disciplinary action, the Zoning Administrator retains the right upon being duly informed of such events, to initiate revocation procedures against this use. It is therefore incumbent upon the property owner and business operator to adhere to all of the corrective Conditions.

The addition of Condition No. 23 is merely a reflection of requirements applicable to all restaurants that also sell alcohol - that they sell a greater dollar volume of food as compared to alcohol, and reinforces the fact that the Florentine Gardens is a restaurant, not a nightclub as repeatedly referred to by its representative.

It is further determined that the instant action by the Zoning Administrator on behalf of the Director of Planning is in compliance with Section 12.27.1 of the Municipal Code and has been conducted so as not to impair the constitutional right of any person. The owner/operator of the business has been afforded the opportunity to review the file both in advance of and after the hearing which was duly noticed and testify and respond to the comments made about the operation of the Florentine Gardens restaurant. The applicant/operator and representative were in attendance at the public hearing held on May 8, 2007. Further, the Conditions previously imposed were not so onerous as to prevent the viable operation of the business.

GAIL GOLDBERG
Director of Planning



DANIEL GREEN
Associate Zoning Administrator
Direct Telephone No. (213) 978-1304

DG:lmc

cc: Councilmember Eric Garcetti
Thirteenth District
Adjoining Property Owners
County Assessor
Officer Michael Rose
LAPD - Hollywood Vice
Mary Clair Molidor - CNAP
1645 Corinth Avenue, #210
Los Angeles, CA 90025

SUPPORT LETTERS



The first presbyterian church of hollywood

1760 north gower street • hollywood, california 90028-5498 • www.fpch.org • tel: [323] 463-7161

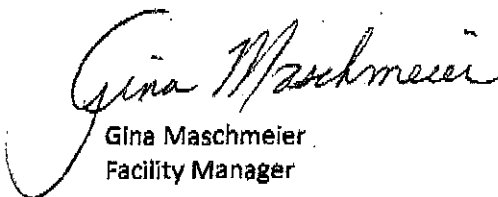
August 25, 2008

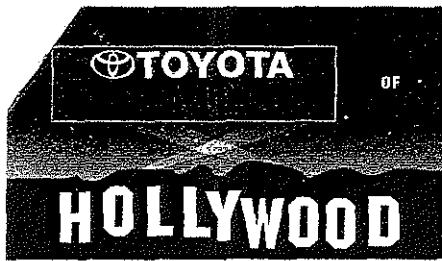
Office of Zoning Administration
Los Angeles, CA

To whom it may concern:

Florentine Gardens has continued to be a good neighbor to the First Presbyterian Church of Hollywood. For many years they have provided access to their parking lots on Sundays, for which we are very appreciative.

Sincerely,


Gina Maschmeier
Facility Manager



In Hollywood - On Hollywood



6000 Hollywood Boulevard
Hollywood, California 90028
323-467-6161 Fax: 323-467-6586
LAcarsGuy.com

August 22, 2008

City of Los Angeles
Planning Commission

Re: Florentine Gardens

Dear Commission Members:

I moved the Toyota Franchise to 6000 Hollywood Boulevard in 1983. We have operated the dealership on several parcels comprising the majority of boulevard frontage from Gower to the Hollywood Freeway on the south side of the boulevard.

Much of the property on the north side of the boulevard contains the Florentine Gardens and adjacent parking. They have been our neighbors for well over twenty years.

Because of overlap in business hours, we have intersected with them on a consistent basis. We have over one hundred forty employees and excess of ten million dollars in vehicle inventory. We can state on a personal and property basis, Florentine has been a very good neighbor causing no problems for our inventory, staff or our many customers in both sales and service.

I hope the above is of some assistance in your assessment. If I or we can be of any further assistance, we would be happy to appear in person if you wish.

Thank you,

A handwritten signature in black ink that reads "John Sullivan".

John Sullivan
Partner

**Case No. DIR 96-0122 (RV)(PA 4)
Condition #**

**MLA
Request**

**Modified
Request**

**HUNC
Position**

**LAPD
Position**

**ZA
Determination**

<p># 5: Except for administrative/maintenance work, all operations shall cease at the facility not later than 2a.m., including after hours use. The premises shall reopen to the public no earlier than 8a.m.</p>	<p>Modify to allow 6a.m.</p>	<p>Same.</p>	<p>Defer to LAPD.</p>	<p>Keep 2a.m.</p>	<p>No change</p>
<p># 6: The parking lot entrances off Carlos Avenue shall be closed daily at 6p.m. and shall not reopen until 8a.m. the following morning. After 6p.m., all ingress and egress for the property shall occur from Hollywood Boulevard.</p>	<p>Delete.</p>	<p>Allow Carlos Avenue lot entrance until 12Midnight, ADD Parking Attendant and Security guard.</p>	<p>Allow Carlos Avenue until 10p.m., ADD Security guard.</p>	<p>None.</p>	<p>No change.</p>
<p># 12: The premises shall not be sublet for nightclub use nor to club promoters.</p>	<p>Modify to allow promoters.</p>	<p>No subletting for nightclub use.</p>	<p>Allow promoters no more than 2 times per month.</p>	<p>Opposed.</p>	<p>No change.</p>
<p># 18: A parking fee may be charged to patrons of the facility. Proof of the use of one of the three designated parking areas located at 5951, 5928 and 6009 Hollywood Boulevard shall be provided to patrons. The driver of each vehicle shall be given a receipt/ticket which clearly indicates the date and the number of vehicle occupants. No patron shall be admitted to the facility unless he/she shows a parking receipt/ticket from one of the three parking areas or a current valid California identification showing that he/she lives within a reasonable walking distance of the facility.</p>	<p>Delete.</p>	<p>Same.</p>	<p>Modify to allow proof of parking at another facility, or public transit.</p>	<p>None.</p>	<p>No change.</p>
<p># 19: Prior to opening of the facility and upon closing time each night, the applicant/operator shall post one sign each at the Hollywood Boulevard and Carlos Avenue locations which warns prospective patrons that they may not walk through the Salvation Army property located at 5939-5941 Hollywood Boulevard to access the facility or to access Carlos Avenue. The signs shall also warn patrons that they will not be allowed into the facility unless they have parked at one of the three designated parking areas located at 5951, 5928 and 6009 Hollywood Boulevard and have received a parking receipt/ticket which includes the number of occupants in the vehicle. The address of the specific parking areas shall be provided on each sign. Prior to the opening of the facility each night, the private security guard in charge at the Salvation Army shall be given the name and contact information for the head security guard of the Florentine Gardens' security guards.</p>	<p>Modify requirement to notify Salvation Army security guard.</p>	<p>Same.</p>	<p>Opposed.</p>	<p>None.</p>	<p>No change.</p>
<p>Following condition is from ZA 84-0500(CUB) #4: No persons under 18 years of age are permitted inside the Florentine Gardens during operating hours. In this regard, the business operator shall utilize an age verification device to screen drivers licenses and provide evidence of its operation to the Zoning Administrator upon installation. The device shall be maintained in proper</p>	<p>Delete.</p>	<p>Modify to allow 18 and over after 10p.m. if accompanied by adult.</p>	<p>Allow 18 and over until 10p.m.</p>	<p>Allow all ages with 7days notification to LAPD.</p>	<p>No change.</p>

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police



P.O. Box 30158
Los Angeles, Calif 90030
Telephone: (213) 972-2900
LAPD TDD (877) 275-5273
Hollywood TDD (213) 485-9899
Ref #: 6.1

ANTONIO R. VILLARAIGOSA

Mayor

August 14, 2008

Mr. Michael LoGrande, Chief Zoning Administrator
Office of Zoning Administration
200 North Spring Street 7th Floor
Los Angeles, California 90012

CASE NO. DIR 96-0122 (RV)(PA5)
ZA 84-0500(CUB)(CUX)

Dear Mr. LoGrande:

The Los Angeles Police Department protests the request for the following modifications of a Conditional Use Permit (CUP) for the applicant Kenneth Mackenzie, doing business (as Florentine Gardens) at 5951 Hollywood Boulevard, Los Angeles, as described:

Condition No. 5: Extending the hours of operation from 2:00 am to 6:00 am, Monday through Sunday (in lieu of *all operations shall cease at the facility no later than 2am, including after hours use. The premise shall reopen to the public no earlier than 8 am.*).

The location of this establishment is in close proximity to the Hollywood Silvercrest residential retirement home along with the Hollywood Weingart Youth Drop Inn Center. The residents and guests of these two locations would be greatly impacted by the noise level generated by patrons loitering and leaving this venue at 6 am. Extending the hours will encourage patrons to stay longer, possibly drink more, leave later, and disturb residents.

Condition No. 12: Allowing club promoters to promote the Florentine Gardens (In lieu of *The premise shall not be sublet for nightclub use nor to club promoters.*).

The reason for our protest is an over saturation of Alcoholic Beverage Control Licensees, specifically nightclubs, in the immediate area and the impact of nightclubs on the community, traffic and police and fire department resources. There are approximately 90 Alcohol Beverage Control License locations (including nightclubs, bars, restaurants and stores) located within the Hollywood Business Improvement District. Of the 90 locations, 32 of these are nightclubs and restaurant/nightclub venues. By allowing promoters to operate at this venue would only exacerbate this problem.

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www.LAPDOnline.com

LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police



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Ref #: 6.1

ANTONIO R. VILLARAIGOSA

Mayor

The Department's crime statistics are a concern and were a factor in forming our opinion regarding the conditions. From August 15, 2007 to August 15, 2008, there has been no less than (133) reported crimes and/or arrests connected to the 5900 block of Hollywood Boulevard. This Department acknowledges that not all of the reported crimes and arrests are specific to the restaurant and/or nightclub activity.

Hollywood has 464 ABC licensed locations in the area. In 2007, 7,430 Part I crimes were reported to the Department, including 1,698 violent crimes and 5,732 property crimes. If the above conditions are amended, it will exacerbate the Department's enforcement efforts and would hamper crime reduction efforts.

The Los Angeles Police Department has compromised with the Applicant and will not protest the following request for changes to the following conditions with certain stipulations:

Condition No. 8: To remove the condition requiring a security guard to be on a cycle performing roving patrols. (In lieu of *The business operator shall equip one of the security guards referred to in condition No. 7 with a cycle for roving patrols of the parking lots and Hollywood Boulevard between Gower Street and Bronson Avenue*).

It is this Department's opinion that requiring a security guard on a cycle does put an unfair burden on the security staff.

However, it is the opinion of this Department that a minimum of two uniformed security guards be posted at the adjacent parking lots currently being utilized by the Florentine Gardens, a security guard can be the first defense against disorderly patrons from getting out of hand and disturbing the peace. It is the Department's opinion that the size of the parking lot and close proximity to residential neighborhood requires that two uniformed security guard be present to provide an adequate level of safety to patrons and community members.

Condition No.4: To allow all ages inside Florentine Gardens during operating hours. (In lieu of *No persons under 18 years of age are permitted inside the Florentine Gardens during operating hours. In this regard, the business operator shall utilize an age verification device to screen*

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Ref #: 6.1

ANTONIO R. VILLARAIGOSA

Mayor

drivers licenses and provide evidence of its operation to the Zoning Administrator upon installation. The device shall be maintained in proper working condition at all times.

This Department is willing to modify this condition to allow all ages during special events and private parties. However we will not compromise this condition to allow all ages during normal business hours. We require that Florentine Gardens notify the Los Angeles Police Department, Hollywood Vice, along with the Alcohol and Beverage Control seven days prior to any special event or private party where all ages would be permitted.

We want to work together with the Applicant and the community to create a cordial and harmonious relationship.

Thank you for your cooperation in this matter. If you have any questions, please contact Lieutenant John Del Vecchio or Officer Rick Koval Hollywood Vice Unit, at (213) 972-2991.

Very truly yours,

WILLIAM J. BRATTON
Chief of Police


CLAY FARRELL, Captain
Commanding Officer
Hollywood Area

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www.joinLAPD.com

www.LAPDOnline.com

Hollywood United

Neighborhood Council

PO Box 3272 Hollywood CA 90078

voicemail (323 769-6424

info@HollywoodUnitedNC.org

www.HollywoodUnitedNC.org

19 August 2008

Pat Brown, Zoning Administrator
Los Angeles City Planning Department
200 North Spring Street
Los Angeles CA 90012

**Re: DIR-96-0122(RV)(PAS)
ZA-84-0500(CUB)
5951 W. Hollywood Boulevard, 90028
Florentine Gardens Restaurant**

On July 30, 2008, The Hollywood United Neighborhood Council received notification from the City of Los Angeles regarding a hearing for modifications of conditions regarding the Florentine Gardens Nightclub (above). We had not been contacted by the applicant prior to the City notification. We then contacted Mr Rabun, the representative of Florentine Gardens, for further information on July 30, 2008. HUNC then scheduled the matter for hearing at our Public Safety and Planning Committee meetings on August 11th and 12th 2008 (respectively) and then heard it at our full Board meeting on August 18th 2008.

The applicant, when asked, stated at our Board meeting that no outreach had been done to the neighboring residents or community prior to the HUNC Committee meetings on August 11/12 2008, and that the only business outreach done was to the Toyota dealership and to the Salvation Army, the immediate neighbors (see HUNC Draft Minutes, attached). This is of great concern to us, but because of the lack of notice and the timing of the hearing, we have chosen to take action.

Therefore we wish to inform you that we have resolved (as listed below with specifications by item number) to support with modifications (see below and see HUNC Draft Minutes, attached) certain of the proposals to modify or delete Conditions as proposed in the November 2007 application of the owners of the Florentine Gardens Nightclub providing that the modifications proposed below are adopted and observed. We confined our considerations to the current

November 2007 application for modification of Conditions. By consensus, the board does not support changes to Conditions numbers 19 and 23.

The listing of items conforms to the numeration used in the Determination by Associate Zoning Administrator Daniel Green on June 7, 2007, Case No DIR-96-0122(RV)(PA4), as used by the Appellant in the current Master Land Use Permit Application. The Board considered and voted on each item individually. The Draft Minutes pertaining to the discussion, motions and the vote pertaining to each motion are listed below.

- **Condition #5** Hollywood United defers to any recommendations of the Los Angeles Police Department regarding closing hours. [For: 7 Against: 2 Abstain: 4 Motion Passed]
- **Condition #6** Hollywood United proposes that the Carlos Avenue entrance be closed at 10:00 pm (instead of 6:00) and that a guard be posted there until closing. [For: 10 Against: 0 Abstain: 3 Motion Passed]
- **Condition #8** Hollywood United proposes that this provision should be maintained until the BID expansion goes into effect, when it should sunset. [For: 9 Against: 0 Abstain: 3 Motion Passed]
- **Condition #12** Hollywood United supports the applicant's request with the added stipulation that the term "occasionally" be used to define "once or twice a month". We oppose that the club be sublet for Nightclub uses. [For: 9 Against: 0 Abstain: 3 Motion Passed]
- **Condition #18** Hollywood United proposes that existing restrictions be modified to include allowance for proof of use of public transport or proof of parking at another adjacent public facility. [For: 9 Against: 0 Abstain: 3 Motion Passed]
- **Condition #21a**, Appellant stated that this has been withdrawn from consideration.
- **Condition #23** Hollywood United is informed that the keeping and displaying of these records is required by law.

Conditions from ZA 84-0500(CUB)

- **Condition #3** Appellant stated that this has been withdrawn from consideration.
- **Condition #4** Hollywood United proposes that underage patrons be permitted until 10:00 pm [provided that provisions of law regarding same are observed] and providing that there be a limit on decibels and a limit to amplified sound. [For: 7 Against: 1 Abstain: 2 Motion Passed]

SUSAN SWAN, President

DAVID H SCHLESINGER, MA, RCA

PLUM Committee

Cc: Hon Eric Garcetti, Councilman, 13th District

Mr Lee Rabun, CLR

Ms Helen Leong, 13th District

File: 5951

Extract.....