

April 16, 2021

File Number: 49JZ-228503

VIA E-MAIL

Planning and Land Use Management
Committee of the Los Angeles City Council
c/o Armando Bencomo, Deputy City Clerk
Council and Public Services Division
200 North Spring Street, Room 395
Los Angeles, CA 90012
E-Mail: clerk.plumcommittee@lacity.org

Re: Applicant Response to Appeal on the Area Planning Commission Determination for the Thompson Hotel Project (Council File No. 15-1320-S1; APCC-2020-537-ZC-CUB-1A; ENV-2014-3707-MND-REC2)

Dear Honorable PLUM Chair Harris-Dawson and Committee Members:

We represent 1541 Wilcox Hotel, LLC (the "Applicant") in connection with the proposed (1) Conditional Use Permit for Alcohol ("CUB") for the sale and dispensing of a full-line of alcoholic beverages in conjunction with the operation of the approved hotel, ground floor restaurant and lobby bar, and rooftop restaurant, bar, and pool deck; and (2) Zone Change from (T)(Q)C4-2D to (T)(Q)C2-2D (the "Project") for the Thompson Hotel located at 1523-1541 North Wilcox Avenue (the "Project Site" or "Property") in the Hollywood area of the City of Los Angeles ("City"). The Applicant is in receipt of one appeal letter filed following the Central Los Angeles Area Planning Commission ("APC") hearing held on December 8, 2020, at which the Project's CUB was approved and the Zone Change was recommended for approval by the City Council. The Letter of Determination ("LOD") for the CUB was issued on January 13, 2021. David Carrera (the "Appellant") submitted an appeal on January 28, 2021 (the "Appeal"). This Appeal is included in its entirety as Exhibit "A" to this letter.

The following are responses to the issues raised in the Appeal.

1. APC's Decision Regarding the Rooftop Hours of Operation Hours is Appropriate

a. The Rooftop Indoor and Outdoor Uses Are Separate Spaces with Different Closing Times

The Appellant alleges that APC erred in its decision to grant the hours of operation until 1:00 a.m. nightly for the rooftop indoor restaurant, lounge, and bar because the indoor and outdoor rooftop spaces "are actually one space with large openable walls and it is inconceivable that they will have separate closing times in practice." The Applicant rejects the Appellant's

allegation and is committed to a 12:00 a.m. closing time for outdoor rooftop uses and a 1:00 a.m. closing time for indoor rooftop uses. In recognition of the community's concerns about rooftop noise, the Applicant proposed and APC approved that the rooftop outdoor dining terrace, pool bar and lounge, and pool deck close at 12:00 a.m. nightly—one hour earlier than the indoor rooftop restaurant, lounge, and bar. As the Appellant mentioned, the rooftop features a retractable glazing system (glass doors) that connects the indoor lounge to the outdoor dining terrace. However, in compliance with hours of operation, the glass doors will shut at 12:00 a.m. when the outdoor rooftop uses close and remain shut while the indoor rooftop uses are open until 1:00 a.m.

The acoustical study prepared for the Project concluded that noise attributable to the rooftop use areas (conversations between guests and ambient music; no live entertainment) would not create a substantial increase in the noise levels at adjoining noise-sensitive receptors.¹ Specifically, the acoustical study determined that rooftop operations would increase ambient noise levels at nearby sensitive receptors by no more than 0.2 dBA CNEL, a nominal increase that is well below the 3 dBA CNEL threshold of significance. The rooftop is designed with a 6-foot-tall plexiglass perimeter wall and landscaping to minimize noise levels at offsite locations to the maximum extent feasible.

The Appellant suggests that the Project's rooftop should close at 12:00 a.m. like two other hotel projects in the area (1523-1529 Cahuenga Boulevard and 6500 Selma Avenue). However, 1523-1529 Cahuenga Boulevard has a small 700 square foot indoor rooftop restaurant with no CUB permit, and 6500 Selma does not include any indoor dining areas on the rooftop. The Project, by comparison, is designed with a large, indoor rooftop restaurant, lounge, and bar. The Project's outdoor rooftop spaces will close at 12:00 a.m., which is consistent with the two projects referenced by the Appellant. Again, there is no live entertainment or amplified music permitted anywhere on the rooftop, as indicated in the LOD. The ability to close the Project's rooftop lounge's retractable doors and windows makes it fundamentally no different than if the restaurant was located anywhere else in the hotel, including at the ground level where the Appellant is not contesting the 2:00 a.m. closing time for the ground floor restaurant and bar.

Furthermore, the following Conditions of Approval will ensure that any future operational concerns regarding noise on the Project's rooftop can be efficiently and adequately addressed. Ultimately, in the unlikely event that the Project becomes a nuisance or otherwise fails to comply with the conditions outlined in the CUB permit, the City would have the police power to revoke the CUB permit.

- *Condition No. 3:* The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator (as delegated by the Central Area Planning Commission) to impose additional corrective Conditions, if, in the Zoning Administrator's opinion, such

¹ See Addendum to the Mitigated Negative Declaration, Appendix C – Acoustical Study, RGD Acoustics, September 30, 2020, page 8.

Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

- *Condition No. 11:* A telephone number and email address shall be provided for complaints or concerns from the community regarding the operation. The phone number and email address shall be posted at the following locations:

- a. Entry, visible to pedestrians

- b. Customer service desk, front desk or near the reception area

Complaints shall be responded to within 24 hours. The applicant shall maintain a log of all calls and emails, detailing: (1) date complaint received; (2) nature of complaint; and (3) the manner in which the complaint was resolved.

- *Condition No. 27:* Any music, sound or noise which is under control of the applicant shall not violate Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance). At any time, a City representative may visit the site during operating hours to measure the noise levels. If, upon inspection, it is found that the noise level exceeds those allowed by the citywide noise regulation, the owner/operator will be notified and will be required to modify or eliminate the source of noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.

b. LAPD Does Not Oppose the CUB or the Rooftop Hours of Operation

The Los Angeles Police Department ("LAPD") reviewed and is in agreement with the Applicant's proposed Conditions of Approval, including the hours of operation. Following discussions between the Applicant and LAPD about the Conditions of Approval, LAPD issued a letter of non-opposition to the issuance of the CUB on December 1, 2020, attached hereto as Exhibit "B". Additionally, LAPD Officer Brian White spoke at the December 8, 2020 APC Hearing and did not raise any objections to the hours of operation or the Conditions of Approval. In fact, Officer White spoke favorably of the Applicant as an operator and said he appreciated the Applicant's partnership with LAPD on other projects in the area.

c. Comparison of the Project to the Dream Hotel (Case No. CPC-2007-3921-ZC-HD-CUB-ZV-SPR) is Irrelevant

The Appellant compares the Project to the Dream Hotel, located at 6415 Selma Avenue. However, this comparison is irrelevant. The Dream Hotel, unlike the Project, obtained conditional use permits to operate the rooftop until 4:00 a.m. daily and permit live entertainment and patron dancing. In contrast, the Project's outdoor rooftop will only operate until 12:00 a.m. and the indoor rooftop will operate until 1:00 a.m. The entire rooftop, both indoor and outdoor spaces, will only feature ambient music. Therefore, the Project's rooftop uses are quite different

from those at the Dream Hotel, and any allegations that the Project will have operational problems is purely unfounded speculation.

2. A Zone Variance is Not Required for Outdoor Dining Areas Above the Ground Floor

First, the Appellant incorrectly states the “City Planning Commission...approved the Site Plan Review with an Outdoor Eating Area above the ground floor.” The Central Area Planning Commission, not the City Planning Commission held the hearing for the Project on December 8, 2020. At that meeting, the APC approved the CUB and recommended approval of the requested Zone Change (“ZC”); Site Plan Review was not considered at the December 8, 2020 hearing.

The Applicant initially applied for a Zone Variance (“ZV”) in August 2019 to allow outdoor dining above the ground floor. Following discussions with the City, the Applicant revised the application in January 2020 to request a ZC because City policy had shifted to require ZCs in the C4 zone to allow outdoor dining above the ground floor. Therefore, the ZC request is consistent with the City’s approach and a ZV is not required.

Furthermore, as a general matter, courts may give deference to an agency’s interpretation of a statute or ordinance; however, the degree of deference is fundamentally situational.² “A court assessing the value of an [administrative] interpretation must consider a complex of factors material to the substantive legal issue before it, the particular agency offering the interpretation, and the comparative weight the factors out in reason to command.”³ Factors to consider include whether the agency offering the interpretation had written the ordinance under the review and whether the agency’s interpretation is one that was consistently maintained and of long standing.⁴

The Department of City Planning as well as the Department of Building and Safety, which is responsible for the implementation and enforcement of the zoning code, has relied on the interpretation of Outdoor Eating Areas and Outdoor Dining, as memorialized in the City of Los Angeles Zoning Code Manual and Commentary, Fourth Edition,⁵ as well as ZAI 1808, which is referenced by the Appellant. These City departments have consistently applied this interpretation to developments in the City. It should also be noted that a ZC has a higher level of review than a ZV and requires an ordinance in order to be adopted, thereby placing more demands on the applicant to demonstrate the justification for the requested entitlement. Therefore, a variance is not required for the Project, and the proposed Outdoor Dining in the C2 Zone is supported by the City’s longtime application of its zoning code.

² *Yamaha Corp. of Am. V. State Bd. of Equalization* (1998) 19 Cal.4th 1, 12.

³ *Id.*

⁴ *Id.*

⁵ The Zoning Manual is a City-published commentary that is consistently referenced by the City and the public as a supplement to the zoning code.

3. Appellant Successfully Submitted Appeal Prior to City's Deadline and Did Not Suffer Substantial Injury

The Appellant notes that he never received a copy of the LOD and had to submit his Appeal “at the last minute.” Government Code Section 65010(b) provides that “[n]o action, inaction, or recommendation by any public agency or its legislative body or any of its administrative agencies or officials on any matter subject to this title shall be held invalid or set aside by any court on the ground of the improper admission or rejection of evidence or by reason of any error, irregularity, informality, neglect, or omission (hereafter, error) as to any matter pertaining to petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals, or any matters of procedure subject to this title, unless the court finds that the error was prejudicial and that the party complaining or appealing suffered substantial injury from that error and that a different result would have been probable if the error had not occurred. There shall be no presumption that error is prejudicial or that injury was done if the error is shown.” (Emphasis added.) While the Appellant did submit the Appeal on the LOD’s final appeal date, January 28, 2021, the Appeal was received and accepted by the City. The Appellant has also had nearly three months to submit supplemental materials in support of the Appeal. As of the date of this letter, the Appellant has not submitted any additional materials to the City. Therefore, the Appellant was able to successfully submit an Appeal to be considered by the City Council and did not “suffer substantial injury” from the alleged error.

4. The Zone Change and CUB is Not Required to Be Filed In Accordance with the Multiple Approvals Ordinance

Modifications to development projects are common as projects move from the planning design phase to construction drawings and ultimately to the built product. It is also fairly common practice for projects to seek modifications to approved entitlements and associated conditions of approval as a project is developed in order to accommodate construction design changes or meet changing market demands.

Here, the CUB request was pulled from the original Project application because the Applicant thought it was important to think through the layout and program and come back with additional details, as the Applicant is doing now. At the time of the original approval of the Thompson Hotel in February 2016, the Applicant stated that it might request a CUB at a future date for the restaurants and guest rooms. At the time of the original requests, the Thompson Hotel did not have an operator and the exact food and beverage program was not finalized. Now, with the operator, Thompson Hotels (Hyatt), selected, it is clear that a robust food and beverage program is needed. Given COVID-19 and the need to accommodate outdoor dining and events, it makes sense to reassess how the Project’s outdoor spaces may be used in the near future. As such, the Applicant determined that a CUB and Zone Change to allow outdoor dining above the ground floor is now required.

5. APC is the Appropriate Body to Hear and Approve the Project

Los Angeles Municipal Code Section 12.32.C.1 explicitly states that APC shall hear and make recommendations on zone change or height district changes if a project involves (1) a development project which creates or results in fewer than 50,000 square feet of non-residential floor area; (2) a development project which creates or results in fewer than 50 dwelling units, guest rooms, or combination thereof; or (3) an application without a proposed project description (i.e., floor area or density) involving a lot with fewer than 65,000 square feet of lot area. Here, the Project includes a ZC and a CUB to permit alcohol service throughout the hotel property, and outdoor above ground level food and beverage service. The request does not result in or create 50,000 square feet or more of non-residential floor area, nor does it create or result in 50 or more dwelling units or guest rooms. Therefore, APC has authority over the entitlement request, not the City Planning Commission.

We respectfully request that this letter be included in the administrative record and be considered by the Planning and Land Use Management Committee at the meeting scheduled for April 20, 2021.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Alfred Fraijo Jr.', with a stylized flourish at the end.

Alfred Fraijo Jr.
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:4822-9126-9349.1

Attachments:

- Exhibit A: Appeal Submitted by David Carrera on January 28, 2021
- Exhibit B: LAPD Letter of Non-Opposition

Exhibit A



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- ☐ Area Planning Commission ☐ City Planning Commission ☐ City Council ☐ Director of Planning
☐ Zoning Administrator

Regarding Case Number: _____

Project Address: _____

Final Date to Appeal: _____

2. APPELLANT

Appellant Identity:
(check all that apply)

- ☐ Representative ☐ Property Owner
☐ Applicant ☐ Operator of the Use/Site

- ☐ Person, other than the Applicant, Owner or Operator claiming to be aggrieved

- ☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: _____

Company/Organization: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?

- ☐ Self ☐ Other: _____

b. Is the appeal being filed to support the original applicant's position? ☐ Yes ☐ No

4. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): _____

Company: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

5. JUSTIFICATION/REASON FOR APPEAL

a. Is the entire decision, or only parts of it being appealed? ☐ Entire ☐ Part

b. Are specific conditions of approval being appealed? ☐ Yes ☐ No

If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- ☐ The reason 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

6. APPLICANT'S AFFIDAVIT

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

Appellant Signature:  Date: 1-28-21

GENERAL APPEAL FILING REQUIREMENTS

B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES

1. Appeal Documents

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates)
Each case being appealed is required to provide three (3) sets of the listed documents.

- ☐ Appeal Application (form CP-7769)
☐ Justification/Reason for Appeal
☐ Copies of Original Determination Letter

b. Electronic Copy

- ☐ Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

c. Appeal Fee

- ☐ Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
☐ Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

d. Notice Requirement

- ☐ Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
☐ Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.

SPECIFIC CASE TYPES - APPEAL FILING INFORMATION
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C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)**1. Density Bonus/TOC**

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

NOTE:

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.
- ☐ Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

D. WAIVER OF DEDICATION AND OR IMPROVEMENT

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

NOTE:

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

E. TENTATIVE TRACT/VESTING**1. Tentative Tract/Vesting** - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- ☐ Provide a copy of the written determination letter from Commission.

F. BUILDING AND SAFETY DETERMINATION

- ☐ **1.** Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

b. Notice Requirement

- ☐ Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

- ☐ **2.** Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

b. Notice Requirement

- ☐ Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- ☐ Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

G. NUISANCE ABATEMENT

1. Nuisance Abatement - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

a. Appeal Fee

- ☐ Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

2. Plan Approval/Compliance Review

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

a. Appeal Fee

- ☐ Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.
- ☐ Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

NOTES

A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

Please note that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.

This Section for City Planning Staff Use Only		
Base Fee:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

Reason for Appeal of APCC-2020-537-ZC-CUB.

1-28-2021

First, I would like to point out that I never received a copy of the LOD in any way, electronically or mail, despite the fact that I signed up to receive it via DCP link/google forms. This explains why this appeal is being made at the last minute, as I just found out late last night that an LOD had been issued.

The APC erred in its decision to allow the hours of operation for the rooftop indoor space from 10AM and not 12AM like the outdoor space. The two spaces are actually one space with large openable walls and it is inconceivable that they will have separate closing times in practice and the possibility for nuisances created in the community is very high. The condition that the whole rooftop should close at 12AM was in response to community and Council District 13 input and the established precedent in the immediate area. DIR-2014-4657-SPR and ZA2014-3016(CUB)(ZV), located at 1523-1529 Cahuenga Boulevard and 6500 Selma Avenue, respectively, both limited hotel rooftop activities to 12AM. Therefore, the City Council should reverse the Commission's approval to allow the use of the rooftop, inside AND outside until 1AM and instead limit the use of the rooftop until 12AM .

LAPD pointed out that this was a potential Quality of Life issue and the community's concerns should be listened to and considered.

The commission didn't give adequate consideration for an owner that has a history of disruptive behavior at their current location, the Dream Hotel, 6415 Selma. They currently have not identified a current operator, but even if they have, it's reasonable to believe, based on their history in the community, that they will put in another problem operator.

Conditions can always be made more liberal but it is hard to reign them when problems occur and the community suffers in the meantime.

The City Planning Commission erred and abused its discretion when it approved the Site Plan Review with an Outdoor Eating Area above the ground floor.

Zone Variance Required

Section 12.03 of the LAMC defines an Outdoor Eating Area as "a covered or uncovered portion of a ground floor restaurant which is not completely enclosed within the building; is used primarily for the consumption of food and/or drinks by the patrons of the restaurant; and is not larger than 50 percent of the dining area of the ground floor restaurant."

I am aware of a 1961 Zoning Administrator's Interpretation (ZAI 1808) which is relied upon by the Planning Dept. and the Department of Building and Safety in

approving Outdoor Dining Areas above the ground floor, but this application is flawed and an abuse of their authority. In applying that flawed application of the 1961 ZAI, the Commission has committed the same err and abuse of discretion.

First, the definition of Outdoor Eating Areas was established in 1990 by legislation after the 1961 ZAI 1808 and therefore supersedes any application of ZAI 1808 when interpreting any rules and regulations applicable to Outdoor Eating Areas. Second, ZAI 1808 never considered Outdoor Eating Areas above the ground floor. Lastly, ZAI 1808 is very clear in allowing outdoor dining areas that are “incidental” to the main “Restaurant, Café, Eating Establishment or Refreshment Facility”. In this case before you, the outdoor area approved by the CPC is not “incidental” to the enclosed restaurant area. Quite the opposite, the outdoor area (5000 sq. ft.) is superior to the enclosed portion of the rooftop restaurant (2000 sq. ft.).

To use ZAI 1808 in establishing rules and regulations which conflict with the adopted legislation of the City Council is an err and abuse of discretion. Regardless of the Planning Dept. and LADBS's practice, the Planning Commission cannot rely on that practice if it can be demonstrated that such a practice is contrary to law.

Moreover, the City’s approval of process for Outdoor Eating Areas in general demonstrates ambiguity and inconsistency.

The following are Zone Variances the City has recently granted to allow Outdoor Eating Areas above the ground floor.

CPC-2008-3440-ZC-CUB-CU-ZV-DA-HD (2013) - 1720-1770 Vine Street
CPC-2009-3416-TDR-CUB-CU-CUW-ZV-SN-DA-ZAD-SPR-GB (2010) - 695-699
Figueroa Street
CPC-2007-3931-ZC-HD-CUB-CU-ZV-SPR (2008) - 6415 Selma Avenue
ZA-2001-1210-CUB-ZV (2001) - 550 Flower Street

There are numerous other instances where a project included a Zone Variance for Outdoor Eating Areas above the ground floor, including this project.

If the City is to formally change the rules and regulations relating to Outdoor Eating Areas above the ground floor, it must do so through a Code Amendment or through a new ZAI that would inherently consider the 1990 legislation that defined Outdoor Eating Areas.

The City Council, if it does not want to do that on a citywide policy, should at least require that this project obtain a Zone Variance in order to permit the consumption of food and/or drinks by the patrons of the proposed rooftop restaurant/bar.

Zone Change and CUB Required to be Filed per Multiple Approvals

As required by the Multiple Approvals Ordinance, “applicants shall file applications at the same time for all approvals reasonably related and necessary to complete the project.” This didn’t occur and these entitlements should have been filed at the same time as the original building entitlements.

Governing/Decision Making Body

This case should have been heard by CPC and not the APCC according to LAMC.

Exhibit B

LOS ANGELES POLICE DEPARTMENT

MICHEL R. MOORE
Chief of Police



ERIC GARCETTI
Mayor

P. O. Box 30158
Los Angeles, Calif. 90030
Telephone: (213) 972-2996
TDD: (877) 275-5273
Ref #: 6.1

December 1, 2020

Ms. Estineh Mailian
Interim Chief Zoning Administrator
200 North Spring Street, 7th Floor
Los Angeles, California 90012

CASE NO. ZA-2020-537-CUB-ZC

Dear Ms. Mailian:

The Los Angeles Police Department (LAPD), Hollywood Area, received written correspondence from the Department of City Planning; Applicant Thompson Hotel 1541 N. Wilcox LLC, doing business at 1523-1541 N. Wilcox Avenue, Los Angeles, has petitioned for a Conditional Use Permit (CUP) to allow the sale and dispensing of a full line of alcohol for or on-site sale and consumption in conjunction with a hotel/restaurant and bar uses.

After reviewing the Land Use Permit Application, meeting with the Applicant, and conducting an on-site inspection of the property, the LAPD has developed a set of recommended conditions which will help to ensure public safety and limit exposure to nuisance activity while at the same time allow the Applicant to successfully operate a viable business.

The LAPD is therefore currently NOT OPPOSED to the issuance of a CUP for the applicant, and respectfully request the pre-submitted conditions be considered when devising the CUP.

Thank you for your cooperation in this matter. If you have any questions or concerns, please contact Officer Nicholas Gutierrez 38237@lapd.online or Officer Brian White 38074@lapd.online, Hollywood Vice, at (213) 972-2996.

Respectfully,

MICHEL R. MOORE
Chief of Police

A handwritten signature in dark ink, appearing to read "STEVEN D. LURIE", is written over a horizontal line.

STEVEN D. LURIE, Captain
Commanding Officer
Hollywood Area