



Los Angeles County
Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director

June 22, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Fred Lane
660 Aztec Way
Monterey Park, CA 91755

**REGARDING: PROJECT NUMBER R2007-02461-(1)
RNCR200700007
3809 East 3rd Street, East Los Angeles**

Dear Applicant:

The Regional Planning Commission, by its action of Wednesday, June 22, 2011, **APPROVED** the above described project and entitlements. The attached documents contain the Regional Planning Commission's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 3 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

The applicant or and other interested person may appeal the Regional Planning Commission's decision to the Board of Supervisors through the office of Sachi A. Hamai, Executive Officer, Room 383, Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012. Please contact the Executive Office for the amount of the appeal fee at (213) 974-1426. **The appeal period for this project will end at 5:00 p.m. on Wednesday, July 6, 2011.** Any appeal must be delivered in person to the Executive Office by this time. If no appeal is filed during the specified period, the Regional Planning Commission action is final.

Upon completion of the appeal period, please notarize the attached acceptance forms and **hand deliver** this form and any other required fees or materials to the planner assigned to your case. Please **make an appointment** with the case planner to assure that processing will be completed expeditiously.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Anita Gutierrez of the Zoning Permits East Section at (213)974-6443 or by e-mail at AGutierrez@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,

Richard J. Bruckner
Director

Maria Masis, Supervising Regional Planner
Zoning Permits East Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: BOS; DPW (Building and Safety); Zoning Enforcement, Testifier

MM:ag

Hearing Footage: 6/22/2011-Item 6

**CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. R2007-02461-(1)
NONCONFORMING REVIEW NO. 200700007**

PROJECT DESCRIPTION

The project is a request for Nonconforming Review ("NCR") to allow for the operation and maintenance of a four-unit apartment building, which is currently nonconforming due to use as well as parking standards. A single-family dwelling unit and a hand carwash are also located on the project site, however the apartment units are the only nonconforming use on the site subject to this NCR request, subject to the following conditions of approval:

GENERAL CONDITIONS

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 7, and until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4 and 5, and 9 shall be effective immediately upon the date of final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in the Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
7. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
8. This grant is for a term of up to 10 years, which consists of an initial 5-year term that will expire on **June 22, 2016**, unless extended for an additional 5-year term upon approval by the Director of Regional Planning. The permittee shall submit a written application accompanied by all applicable fees no less than 6 months prior to the expiration date of the initial term. The Director shall grant such extension if the use is found to be in substantial compliance with the conditions of approval, has been conducted in compliance with all applicable laws and regulations, and the permittee has exercised the utmost diligence in resolving any Notice of Violation issued throughout the term of the permit. Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new Nonconforming Review application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six (6) months prior to the expiration date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
9. This grant shall expire unless used within ninety (90) days from the date of final approval of the grant. A single thirty (30) day time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date. For the purposes of this provision, continued operation of the **four unit apartment building** and satisfaction of Condition No. 2 shall be considered use of this grant.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$600.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **three (3) biennial (one every other year)** inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.
12. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
13. All requirements of Title 22 of the County Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise modified as set forth in these conditions or as shown on the approved plans.
14. All development pursuant to this grant shall conform with the requirements of County Department of Public Works.
15. All structures, walls and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notification of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

16. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, three (3) copies of a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.

FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION COUNTY OF LOS ANGELES

**PROJECT NUMBER R2007-02461-(1)
NONCONFORMING REVIEW NUMBER 200700007**

REQUEST

The project is a request for Nonconforming Review ("NCR") to allow for the operation and maintenance of a four-unit apartment building, which is currently nonconforming due to use as well as parking standards. A single-family dwelling unit and a hand carwash are also located on the project site, however the apartment units are the only nonconforming use on the site subject to this NCR request.

REGIONAL PLANNING COMMISSION HEARING DATE: June 22, 2011

A duly noticed public hearing was held on June 22, 2011 before the Regional Planning Commission. Commissioners Modugno, Valadez, Louie, Helsley and Pedersen were present. The applicants Fred Lane Sr. and Fred Lane Jr. presented testimony in favor of the request and answered questions presented by the Commission.

The Commission discussed the grant term length in light of the long range planning efforts underway in this area and agreed that the long term appropriateness of the apartment use needs to be evaluated along with the forthcoming zoning changes proposed in the East Los Angeles Transit Oriented Development District. The Commission found it appropriate to grant a five year grant term length with an additional five years upon a Directors Review.

Two residents of the apartment complex presented testimony in favor of the apartment use and stated that the adjacent car wash use was not a problem to them.

There being no further testimony, the Regional Planning Commission closed the public hearing and approved the permit with changes to the findings and conditions as agreed to by the applicant.

FINDINGS

1. The subject property is located at 3809 East 3rd Street in unincorporated East Los Angeles on property located in the C-3 (Unlimited Commercial) zone.
2. The project is a request for a Nonconforming Review ("NCR") to allow for the operation and maintenance of a four unit apartment building with less than required parking. A single-family dwelling unit and a hand carwash are also located on the project site, however the apartment units are the only nonconforming use on the site subject to this NCR request.
3. The project site is located within the East Los Angeles Community Plan area and is designated as Category CR - Commercial Residential, which is described as areas containing mixtures of commercial and residential uses. The commercial uses

permitted within this category are primarily neighborhood commercial, while residential densities are limited to 30 dwelling units per acre.

4. The proposed project would be consistent with the East Los Angeles Community Plan ("ELA Community Plan") designation by providing housing within the recommended density (maximum density for this project site is 6 units), however there are other Community Plan Policies related to Land Use that would not support the current condition or layout of the housing on the project site. The ELA Community Plan states that "*Homes should be screened from business areas using walls and landscaping or by developing buffer uses such as parking lot or parks.*" The ELA Community Plan also directs to "*[d]esignate appropriate area where mixed use will be permitted subject to compliance with performance standards, where mixed uses are permitted, ensure compatibility of adjacent uses through careful design.*" Currently the apartment homes are not shielded or buffered from the commercial use on the property, causing concern for the long-term appropriateness of housing in this location in conjunction with the carwash. The existing design and integration of uses on-site is not an ideal situation for long-term continued use of the apartments as they currently exist.
5. The project site is located within the C-3 (Unlimited Commercial) Zone and is within the East Los Angeles Community Standards District ("CSD") and is within the Specific Area boundary of the Commercial/Residential Mixed Use Area. When residential uses are developed in conjunction with commercial uses on the same parcel of land, they shall be subject to the following requirements: 1) *With the exception of the first floor, commercial and residential uses shall not be located on the same floor.* 2) *The hours of operation for commercial uses shall be limited to the hours of 7:00 a.m. to 10:00 p.m.* There are currently two apartment units located on the first floor, directly facing the commercial use (carwash) on-site and the hours of operation requirement does not apply as this permit only addresses the four unit apartments on-site.
6. Based on current parking requirements six parking spaces would be required for the apartment use. Current parking standards require 1.5 covered spaces per unit for apartments, requiring a total of six parking spaces ($4 \times 1.5 = 6$) for the apartment use. At the time the apartments were constructed, in 1958 parking for a four unit apartment building in a commercial zone required one space for each dwelling unit be provided in a garage carport or structure suitable for providing shelter. The apartment building was constructed with necessary building permits, however there was no Planning Department review of the project prior to construction, it is reasonable to believe that the project was legally built without parking and has remained as built since that time. There is currently no parking provided for the apartment use, therefore the project would also be nonconforming due to parking standards.
7. The project site is surrounded by a mix of uses, including residential and an elementary school to the North, residential and commercial to the East, a school

directly to the South and residential and commercial to the West. Apartments are a compatible use at this location.

8. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper and property posting. A total of 184 notices were mailed to property owners within 500 feet of the property on May 4, 2011 and the project was advertised in East LA. Tribune and La Opinion Newspapers on 05/12/11 and 5/10/11 respectively.
9. As the apartment building has existed in its current location for over 50 years without any major problems resulting from the residential use. The apartment building is located near other multi-family uses and is compatible with the surrounding residential community. The continued use of the building for an additional five years would not adversely affect the health, peace or welfare of persons residing or working in the surrounding area.
10. The apartment use by itself is a low impact use containing four units. It is located in an area adjacent to other residential uses, fits with the neighborhood pattern and is well maintained. It would not be materially detrimental to the use, enjoyment or valuation of the property of other persons located in the vicinity of the site.
11. The apartment use provides safe, clean and well maintained housing opportunities in the community and therefore would not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
12. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Regional Planning Commission determines that it is necessary to limit the term of the grant to maximum of 10 years total, with a five (5) year grand an option for an additional five (5) years with a Director's Review.
13. The Commission found it appropriate to grant a five year grant term length with an additional five years upon a Directors Review in light of the long range planning efforts underway in this area and agreed that the long term appropriateness of the apartment use needs to be evaluated along with the forthcoming zoning changes proposed in the East Los Angeles Transit Oriented Development District.
14. The Project is categorically exempt Class 1 – Existing Facilities, pursuant to the California Environmental Quality Act (CEQA) and the Los Angeles County environmental reporting guidelines. The request is to continue the operation and maintenance of an existing four-unit apartment building, which is currently nonconforming due to use as well as parking standards. The building was constructed in 1958 and the applicant is not proposing any new construction or other intensification of use. Therefore, the project qualifies for a Class 1 categorical exemption from the California Environmental Quality Act for existing facilities.

15. The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits East Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

That such use, building or structure does not now and will not during the extension period requested;

1. Adversely affect the health, peace or welfare of persons residing or working in the surrounding area, or
2. Be materially detrimental to the use, enjoyment or valuation of the property of other persons located in the vicinity of the site, or
3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

REGIONAL PLANNING COMMISSION ACTION

1. In view of the findings of fact and conclusions presented above, the Regional Planning Commission determines that the project is categorically exempt from CEQA pursuant to a Class 1 categorical exemption.
2. The Regional Planning Commission **APPROVES** Nonconforming Review Number 200700007 is approved subject to the attached conditions.

c: Each Commissioner, Zoning Enforcement, Building and Safety

VOTE 5-0

Concurring: Modugno, Valadez, Louie, Helsley and Pedersen

Dissenting: None

Abstaining: None

Absent: None

Action Date: June 22, 2011

MM:AG
06/02/2011