

**JOHN A. HENNING, ESQ.**

**West Los Angeles Area Planning Commission  
Regular Meeting  
April 20, 2011**

REGULAR MEETING (4/20/11)

[START 04ZA06-5028\_PART 1]

FEMALE VOICE 1: Moving onto item number four, ZA-2006-5028-CUB-PA1-1A CEQA Environmental 2010-1043-CE, project location, 147 and 1--I'm sorry, 1427 and 1429 Abbot Kinney Boulevard. - .

MR. FERNANDO TOVAR: Good afternoon, Members of the Commission. Fernando Tovar, I was the Hearing Officer that conducted the case on behalf of the chief zoning administrator, Ms. Lynn Wyatt. Um, yes, the case before you is a zoning administrator determination, uh, to review the applicant's compliance to the conditions of approval, as well as to review the effectiveness of the conditions of approval for a conditional use permit that was issued on the site on May 4th, 2007, to permit the onsite sale of a full line of alcoholic beverages, in connection with, uh, Gjelina Restaurant, which was a new restaurant at the time of approval. Uh, the filing of the plan approval was required by condition number 29 of the grant, and just a brief little description of the building. Uh,

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1 this is an older, non-conforming building, um,  
2 that currently has a retail tenant on one side,  
3 and--on the ground floor. And there's two, two  
4 tenants on the ground floor, the restaurant  
5 being one, the, uh, retail tenant being the  
6 other. On the second floor, it's not a full  
7 second floor, but it's a partial second story,  
8 which contains a dwelling unit. There's a  
9 detached one car garage, which is--this is a  
10 corner lot, at the corner of Milwood Avenue and  
11 Abbot Kinney, and you have a one car garage  
12 that's accessible off of Milwood Avenue. Uh,  
13 the ZA's, uh, jurisdiction in this case is  
14 limited simply to determining whether or not the  
15 restaurant is in full compliance to the  
16 conditions of approval. This is the first and  
17 only plan approval that's been filed since the,  
18 um, uh, use was established. Um, and  
19 Commissioners, as you're aware, if a use is  
20 found to be in full compliance, then a zoning  
21 administrator may determine that no further  
22 review is required, and may eliminate the  
23 requirement for any future plan approvals. On  
24

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1 the other hand, if a use is found not to be in  
2 compliance, then the zoning administrator may  
3 impose corrective conditions, as appropriate,  
4 and may require the finding of a subsequent,  
5 subsequent plan approval, in order to review  
6 compliance with the, uh, and effectiveness of  
7 any revised, uh, conditions. Um, and prior to  
8 moving to the level of revocation, uh, we're  
9 required to follow due process, um, and  
10 typically, that requires, uh, allowing the, uh,  
11 existing use an opportunity to come into  
12 compliance, and the typical steps is that, uh,  
13 we impose corrective conditions and, as I  
14 mentioned, set up for a subsequent plan  
15 approval. I mention that because that's one of  
16 the items on appeal is that the zoning  
17 administrator should have revoked the use, uh,  
18 but again, I want to just outline that that's a  
19 process to, to get to that stage. Uh, in this  
20 case, the zoning administrator has found that  
21 the use, uh, was not in full compliance, uh, to  
22 the--to the conditions of approval, and has  
23 imposed corrective conditions and modified or  
24

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1 eliminated certain conditions and has added two  
2 new conditions of approval. Uh, the, the, the  
3 zoning administrator considered, uh, adding a  
4 requirement to make the applicant file a, a  
5 subsequent plan approval. Uh, the problem is  
6 that this grant is going to expire in May of  
7 2012, a year from today, so it seemed, you know,  
8 the, the--pointless to make the applicant file a  
9 plan approval, when the grant's going to expire,  
10 uh, in a year from--a year from now. And if the  
11 applicant wishes to continue the onsite sale of  
12 alcoholic beverages, then at that time, the  
13 applicant will have to file a new application,  
14 uh, to establish the - - brand, you know, as a  
15 brand new application. Um, with that, I do want  
16 to say that there seems to be some  
17 misunderstanding, uh, as to what this plan  
18 approval determination does and what it doesn't  
19 do. Uh, and part of the reason, I think, is  
20 because the site is located within the Venice  
21 Coastal Zone Specific Plan, and was also issued  
22 a project permit compliance, uh, which was  
23 actually approved on October 12th, 2006, seven  
24

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months prior to the zoning administrator's action, uh, in approving the conditional use for the sale of alcoholic beverages. So these were two separate entitlements that were processed separately. They were not filed concurrently. Uh, the zoning administrator's office only has jurisdiction over the conditional use permit. Uh, and so, there seems to be a conflict between the two entitlements. The original plans that were approved under the project permit compliance included, um, a fixed bar that was next to an indoor dining area and, uh, there was limited outdoor dining area, as well. Um, there's no explicit condition in the project permit determination that limits the maximum service floor area, as you know, under the Venice Specific Plan. Um, there's a definition of service floor area, and that de--and that determines the amount of parking that re--that's required, and what have you. So in any event, the plans were approved and subsequent to that project permit determination, the ZA's action, seven months later, uh, the--apparently, at that

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1 time, there was concerns about the bar, so the  
2 fixed bar was eliminated. And the plans, the,  
3 the, the, the action of the zoning administrator  
4 required that revised plans be submitted,  
5 eliminating the bar, uh, but again, those plans  
6 were not submitted prior to issuing the  
7 determination and became a condition of  
8 approval. And subsequent to the issuance of the  
9 determination letter, plans were then submitted,  
10 showing that there was no bar, and the zoning  
11 administrator signed off, and they moved on.  
12 The problem is that, from day one, at the  
13 outset, you had two different plans that were  
14 approved because there was a set of plans  
15 approved by the zoning administrator that did  
16 not include a fixed bar within the restaurant,  
17 and there was a set of plans that were approved  
18 under the project permit compliance that did  
19 include a fixed bar. Moving forward, uh, the  
20 restaurants gets to establish itself, uh, and  
21 goes into operation, and we held the hearing for  
22 the plan approval a year ago. Uh, I, I don't  
23 want to go into the, the details of the issues  
24

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1 that were raised at the hearing 'cause I'm sure  
2 that you're going to hear them for yourself  
3 today. But I will just briefly state that the  
4 issues that were raised at the hearing pertained  
5 to the fact that, um, the restaurant was  
6 exceeding the allowable service floor area, as  
7 approved by the, uh, project permit compliance,  
8 uh, that there was loud noise or music emanating  
9 from the site, that, uh, the use was, uh, uh,  
10 causing the, the displacement of residential  
11 parking in the adjacent residential  
12 neighborhood, that the detached one car garage,  
13 which was supposed to be used for parking, was  
14 being used for storage, that the upstairs  
15 dwelling unit was, uh, being used for dining at  
16 the time, uh, rather than as a dwelling unit,  
17 and finally, that the, uh, curb in front of the  
18 restaurant was, uh, being reserved for loading  
19 or parking without the approval of the  
20 Department of Transportation. The case was  
21 taken under advisement, and subsequent to the  
22 hearing, uh, the applicant did submit a set of  
23 revised plans, seeking and requesting approval  
24

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1 to increase the service floor area, but I want  
2 to be very clear, that that request was neither  
3 considered, nor granted, by the chief zoning  
4 administrator, as part of this determination.  
5 Uh, it was determined that that request is, is,  
6 is under the jurisdiction of the specific plan,  
7 and would be more appropriately handled by the--  
8 what is now the plan implementation unit, uh,  
9 which was formerly known as the community pla--  
10 uh, community planning section. Um, so with  
11 that, I'm going to say that there was enough  
12 information furnished to substantiate some of  
13 the issues that were raised at the hearing, and  
14 to that--and to that end, the zoning  
15 administrator determined that there was not full  
16 compliance, and basically, added corrective  
17 conditions and new conditions. Uh, new  
18 condition number 31 expressly prohibits use of  
19 the upstairs for dining, and requires that the  
20 garage be used for parking only. Condition  
21 number 32 prohibits use of the curb in front of  
22 the restaurant to be used for loading, or to be  
23 designated as parking for exclusive use of the  
24

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1 restaurant, without the approval of DOT. Um,  
2 more importantly, in order to eliminate conflict  
3 and confusion between the two entitlements, the  
4 ZA plan approval determination has deleted any  
5 conditions that limited seating capacity, and  
6 instead, required conformance to plans on file  
7 in the related project com--permit compliance  
8 case, rather than those on file in the ZA case.  
9 I do want to say, and I don't know if I  
10 mentioned this earlier, that the zoning  
11 administrator's determination had included a  
12 condition that limited, uh, the seating capacity  
13 to 44 indoor seats, and 16 outdoor seats. Um,  
14 in limiting the seating capacity, the record is  
15 not clear, uh, what that number is based on,  
16 whether it was based on the proposed plans at  
17 the time, the revised plans that were not seen  
18 until after the determination was issued, so  
19 that would be difficult, or whether it was  
20 intended as a mitigation, in which case, the  
21 findings in the original, uh, determination  
22 don't really address that. Uh, so again, and  
23 that, that seating capacity may or may not be  
24

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1 consistent with whatever the capacity  
2 commensurate with the allowable service floor  
3 area, under the related project permit case may  
4 or may not be. So the best thing to do was to  
5 basically eliminate any restriction against  
6 seating capacity, under the zoning  
7 administrator's case, and allow that to be  
8 driven by the project permit compliance case.  
9 To, to the extent that the applicant would like  
10 to make any modifications or increase the  
11 service, uh, floor area, then again, that--  
12 that's probably something that's more  
13 appropriately, appropriately handled by filing  
14 for a modification to the project permit  
15 compliance. Uh, so with that, I just want to be  
16 very clear that this plan approval, uh, has not  
17 approved any increase in the service floor area  
18 for the restaurant, uh, and again, has only  
19 imposed those corrective conditions that I've  
20 made reference to.

22 FEMALE VOICE 1: Thank you. Any questions  
23 from the Commissioners?

24 COMMISSIONER JOYCE L. FOSTER: Commissioner

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1 Foster. My question is, by eliminating the  
2 seats, I remember when this case came before  
3 this Commission, and we were quite clear about  
4 the number of seat. I mean, that was not just a  
5 number pulled out of nowhere, and I'm just  
6 wondering--so the next step, if we approve your  
7 recommendations and deny the appeal, then who  
8 decides how many seats that...  
9

10 MR. TOVAR: Um, that--

11 COMMISSIONER FOSTER: [Interposing] Because  
12 I remember, the seating was very directly, um,  
13 it was aligned with the parking, and we--so--

14 MR. TOVAR: [Interposing] And just to  
15 clarify, did this come to you on appeal under  
16 the project permit, or did this come to you on  
17 appeal on the conditional use for the alcohol,  
18 and does anybody--

19 COMMISSIONER FOSTER: [Interposing] I don't  
20 remember.

21 MR. TOVAR: Okay.

22 COMMISSIONER FOSTER: Do you remember? I,  
23 I--okay, you remember?

24 FEMALE VOICE 1: I don't remember.

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2 COMMISSIONER FOSTER: Does any--was--

3 MR. TOVAR: [Interposing] 'Cause I did  
4 review the findings and I--and again, I, I  
5 didn't see where, where, where that number had  
6 come from, so I wasn't clear, and the zoning  
7 administrator who acted on it--

8 COMMISSIONER FOSTER: [Interposing] No, I  
9 know that--

10 MR. TOVAR: --wasn't - - .

11 COMMISSIONER FOSTER: --I, I do remember. I  
12 don't know. Do you remember that, Commissioner  
13 Martinez?

14 MR. TOVAR: But, but to answer your  
15 question, no, I mean, this action does not  
16 really remedy or solve the discrepancy between  
17 this approval and what was approved by the  
18 project permit compliance, so that remains  
19 outstanding.

20 FEMALE VOICE 1: Okay. Well, so what would  
21 be the effect of, of agreeing to remove those  
22 conditions? Um, I'm, I'm having a hard time  
23 following here.

24 COMMISSIONER FOSTER: I am, too. I, I don't

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understand why you would--

MALE VOICE 1: [Interposing] - - a different restaurant.

COMMISSIONER FOSTER: --why you would--it isn't a different restaurant. It's the same one.

MR. TOVAR: Yeah. Yeah, I was going to say, I don't think this case has ever been before you before, so you might be thinking of a different restaurant.

COMMISSIONER THOMAS M. DONOVAN:  
Commissioner Donovan. I think that you might be thinking of, uh, 1305 Abbot Kinney. That, that was something that we, um--

COMMISSIONER FOSTER: [Interposing] Oh, I...

COMMISSIONER DONOVAN: --decided about a year ago, um.

MR. TOVAR: Yeah, this is some - - .

COMMISSIONER FOSTER: - - .

COMMISSIONER DONOVAN: This is the corner of Milwood Avenue. It was, uh, the same--perhaps the same applicant, and there was some discussion about, uh, Gjelina Restaurant and

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1 that--because I, I went back to my notes 'cause  
2 I, I, I was trying to remember, uh, what else we  
3 did on Abbot Kinney, and so, we did do 1305  
4 Abbot Kinney, um...

5 COMMISSIONER FOSTER: In 2007?

6 COMMISSIONER DONOVAN: And that would have  
7 been done in, uh, in April 21, 2010. That's  
8 when we had the hearing on that.

9 COMMISSIONER FOSTER: Yeah, we--we're  
10 talking 2007, is when--

11 COMMISSIONER DONOVAN: [Interposing] 2007?  
12 Well, I wasn't here on this Commission--

13 COMMISSIONER FOSTER: [Interposing] Right.

14 COMMISSIONER DONOVAN: --in 2007, so I don't  
15 know.

16 COMMISSIONER FOSTER: Glenda and I - -  
17 Commissioner Martinez and I were both here, and  
18 we're pretty sure I remember - - the restaurant  
19 - - .

20 MR. TOVAR: No, as, as, as far as I'm  
21 concerned and the applicant's representative  
22 just mentioned that this has never gone before  
23 the Planning Commission on appeal. And again,  
24

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1 uh, at the time that the use was established, it  
2 was formerly, uh, there was, I believe, three  
3 retail tenants on the ground floor, and I  
4 believe that the restaurant took over two  
5 existing retail spaces. Um, so again, the, the,  
6 the, the--I think--I don't know that there was  
7 any controversy under the project permit  
8 compliance, and there's certainly no appeals  
9 filed on that. And then, on the, uh,  
10 conditional use permit, uh, the biggest issue  
11 was, you know, the bar, at the time. And so,  
12 that was eliminated and no appeals were filed  
13 on, on, on this case, either. And you just kind  
14 of caused me to second guess myself for a second  
15 'cause I've had other cases on Abbot Kinney, so  
16 I understand.

18 COMMISSIONER FOSTER: Oh, we've had a lot of  
19 them.

20 MR. TOVAR: Yes.

21 COMMISSIONER FOSTER: Right. I--

22 MR. TOVAR: [Interposing] I understand how  
23 you can get--yeah.

24 COMMISSIONER FOSTER: We both thought we

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remembered this.

COMMISSIONER DONOVAN: Commissioner Donovan. I, I have a few questions. Now, you found the, uh, um, the owner of the establishment to be only in partial compliance. In what respects was there not full compliance did you find?

MR. TOVAR: Uh, the--there was, um, evidence to show that the, uh, that, that the dining area--well, one of the conditions of approval is that--which is weird, uh, because there's a conflict, is that the, um, that the plans also, uh, complied to all of the conditions in the related project permit compliance case. Um, and so, that - - as to the amount of service floor area that can be utilized, um, and - - seating, there, there was evidence to show that the upstairs was being used for dining, which was never part of the plans, um, not only the zoning administrator's action, nor the project permit, uh, neither one of those. There appears to be, uh, an office that was shown on the plans on the ground floor that was being utilized as dining area. Uh, the garage, as I mentioned, was

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1  
2 apparently being used for storage, instead of  
3 parking, um, and, and the patio, uh, there is an  
4 outdoor patio, but only a portion of the outdoor  
5 patio is supposed to be used as service floor  
6 area, and the entire patio has been - - had been  
7 being used as service, you know, dining and what  
8 have you.

9 COMMISSIONER FOSTER: How much more non-  
10 compliance can you get? That sounds pretty non-  
11 complaint - - .

12 MR. TOVAR: Well, because there's, uh,  
13 that's not the only condition. You have a whole  
14 bunch of other conditions, and to the extent  
15 that they're compliant--

16 COMMISSIONER FOSTER: [Interposing] Right.  
17 Well, they're serving food.

18 MR. TOVAR: --with all the other conditions,  
19 right, but--

20 [Crosstalk]

21 COMMISSIONER DONOVAN: Commissioner Donovan.

22 COMMISSIONER FOSTER: That seems pretty big  
23 non-compliant to me. I mean, that, that sounds  
24 like a lot of things they're doing that are not

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compliant, so anyway, okay.

COMMISSIONER DONOVAN: And so, I just want to make clear on this. So you, you made findings that, um, that the dining area or floor area was increased over the amount, that the upstairs had been used for dining, that the garage had been used for storage, and the part--entire patio was used when it was not supposed to be used--

MR. TOVAR: [Interposing] I'm not sure that the findings get that--yeah, I'm not sure that the findings get that detailed, but kind of generally, yes, we're making a determ--uh, a finding that they're not in full compliance. Now, as an example, we could say--and, and, and it's been done before, that the restaurant or the use is not in compliance or not in full compliance. I don't know how to word it. Let's just say that, you know, there's more violations of the, the com--they're violating more conditions that they're actually conforming to. Either way, at the end of the day, you're making a, a determination, rather than a finding.

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1 You're making a determination that it's not in  
2 compliance.  
3

4 COMMISSIONER DONOVAN: Okay. My, my next  
5 question is that, did the applicant ever apply  
6 to increase the seat capacity, before your  
7 hearing?

8 MR. TOVAR: Before this hearing, no. Not to  
9 my knowledge.

10 COMMISSIONER DONOVAN: Did the applicant or  
11 the owner of the restaurant ever apply for any  
12 changes in the imposed conditions, before your  
13 hearing?

14 MR. TOVAR: Uh, no, because under the ZA  
15 action, this is the first plan approval that was  
16 required to be filed and the first time that  
17 we've had it before us again.

18 COMMISSIONER DONOVAN: Did the owner violate  
19 any conditions regarding a noise buffer or  
20 amplified music?

21 MR. TOVAR: Uh, that's more of a subjective  
22 judgment. I can say that, uh, there was  
23 complaints about that. I can say that I, I  
24 personally conducted a site visit. Uh, one of

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1 the--I believe that the condition is that, uh,  
2 noise not be audible beyond the site, and there  
3 is a condition that requires that a barrier be,  
4 uh, installed in the patio. Uh, with respect to  
5 the barrier and the patio, the zoning  
6 investigator's report, uh, when, when he did a  
7 site visit and went inside, he didn't really  
8 address that, so I can't say for sure whether or  
9 not that barrier has been installed. Um, I did  
10 a site visit on a Saturday night, kind of late,  
11 myself. You can hear the music, uh, outside on  
12 the sidewalk adjacent. It's--at that time, for  
13 me, it was more like ambient noise, but it  
14 wasn't blaring, and again, that was just at the  
15 time that I happened to be there.

17 COMMISSIONER DONOVAN: I understand. So I'm  
18 just trying to - - if--did you make a finding  
19 that there was a violation regarding the noise  
20 buffer and the amplified music?

21 MR. TOVAR: No, and again, the, the findings  
22 in this case are more general, and there's only  
23 two findings to be made, um, and we basically  
24 kind of summarize and say that we found that,

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1 you know, and I can go back to look at the  
2 findings are. No, we don't go point by point,  
3 to, to be clear.  
4

5 COMMISSIONER DONOVAN: And, and is it true  
6 that the, uh, uh, the owner remodeled the second  
7 floor, without obtaining appropriate building  
8 and safety permits?

9 MR. TOVAR: Uh, I can say that, uh, that  
10 there was an order to comply that was apparently  
11 issued on the site. Uh, I don't recall that  
12 being furnished to me at, at the Hearing  
13 Officer's hearing. Uh, it was included with  
14 your package, as part of the appeal, um, but I  
15 don't ever recall receiving that, but you know,  
16 what was furnished was there, there wasn't any  
17 doubt about it. There, there, there was, um,  
18 uh, somebody submitted a, a business card or  
19 something on there. I'm not sure if it was  
20 their website or their business card, but there  
21 was something that indicated, you know, for  
22 inquiries about upstairs, call this number. So  
23 there seemed to be, like I said, enough evidence  
24 to support that.

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COMMISSIONER DONOVAN: And my, my last question, you said you haven't put down a, a new fixed time for com--compliance review because there's already one scheduled in one year.

MR. TOVAR: No, because the grant's going to expire a year from, from now.

COMMISSIONER DONOVAN: When you say the grant will expire, then their--

MR. TOVAR: [Interposing] - - only talking about the alcohol.

COMMISSIONER DONOVAN: Yeah, their ability to sell alcohol--

MR. TOVAR: [Interposing] That's correct.

COMMISSIONER DONOVAN: --will expire in one year.

MR. TOVAR: That's correct.

COMMISSIONER DONOVAN: Thank you.

MR. TOVAR: And they'll have to reapply if they want to continue.

COMMISSIONER DONOVAN: Okay. Thank you. I, I don't have any more questions.

FEMALE VOICE 1: Thank you. Any other questions?

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COMMISSIONER CHRISTOPHER D. LEE: I have a question. Do they provide valet service?

MR. TOVAR: No.

COMMISSIONER LEE: Uh, you said the patio was converted to dining. How many seats was that? It's like four tables, one table, do you know?

MR. TOVAR: Depending on which set of plans you're looking at, uh, there was anywhere from between about eight seats shown on one set of plans, to 16 on another set of plans, um, easily double or more than double of what was originally approved.

COMMISSIONER LEE: So the business picked up, and they needed more business space. Is that what it is?

MR. TOVAR: That's what it seems like.

COMMISSIONER LEE: Basically. Do they--how many employees do they have?

MR. TOVAR: Uh, that, I couldn't tell you.

COMMISSIONER FOSTER: There's 10 or 12, I think, as I recall reading through the report.

FEMALE VOICE 1: Thank you.

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COMMISSIONER FOSTER: No?

FEMALE VOICE 1: You have a chance to ask.

COMMISSIONER FOSTER: - - ? They have 100 employees? Employees? And no p--

MR. TOVAR: [Interposing] Uh, there's no way for us to observe - - .

FEMALE VOICE 1: Um, all right. Um, Council office? I mean, I'm sorry, Mayor's office?

COMMISSIONER FOSTER: So it's jobs.

MS. NICOLE WILLIAMS: Hi. My name is Nicole Williams. I'm here from the Mayor's Office of Economic and Business Policy. I'm here in support of Gjelina. Um, our office specifically is focused on the creation and retaining jobs in the City of Los Angeles, and so, with 105 employees, the last thing we want is for folks to be displaced, so we are in support of the ZA's determination letter. Uh, we'd like to see them be given a little bit of time to get into compliance. Um, and, and so, just to kind of give you an idea of, uh, you know, the ramifications of them not being able, or not having the time to get into compliance, and them

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1 losing significant business, not only would it  
2 be kind of a loss of these 105, but, um, you  
3 know, this business contributes to the community  
4 in a huge way. Um, every month, they spend  
5 about \$30,000.00 in local farm goods, \$8,000.00  
6 on cleaning. Um, I think in the month of  
7 February, alone, they paid \$60,000.00 in sales  
8 tax. They paid--they paid \$35,000.00 in  
9 employment tax. So just to give you a sense of  
10 kind of, uh, the magnitude of this business and  
11 our office is all about helping them to get into  
12 compliance, and make sure that they're--  
13 everything's above board, but we are in support  
14 of them and, uh, the ZA's determination letter.  
15 Thank you.

17 COMMISSIONER DONOVAN: Commissioner Donovan.  
18 One, one question for the Mayor's office.

19 MS. WILLIAMS: Sure, yes.

20 COMMISSIONER DONOVAN: What's the Mayor's  
21 position about not complying with conditions,  
22 and then, coming in afterwards?

23 MS. WILLIAMS: Um, well, I think we want--we  
24 respect the Commission's decision, and we want

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every business, uh, that we support to do the same. And so, our thought is, if their business has grown and, uh, they need to make some changes, then we want to give the, the time to do that. We're not supporting the fact that they're not in compliance. What we are supporting is the business, itself, and the fact that they can get into compliance, given that they are given the time to do that.

COMMISSIONER LEE: What's a good ample time for you, in your mind?

MS. WILLIAMS: Six months, eight months.

FEMALE VOICE 1: Anything further?

COMMISSIONER FOSTER: No, thank you.

FEMALE VOICE 1: Thank you. Appellant, uh, Arminda Diaz, is that correct?

MS. ARMINDA DIAZ: Hi, my name is Arminda Diaz. Um, just, uh, a quick side note, um, they've already had since October to come into compliance, when they were in front of the Venice Neighborhood Council, and nothing, nothing has been done since. Um, but just to, um, um, the, the reason for my appeal, there are

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1 a few con--uh, errors of the zoning  
2 administrator, which are conditions 26 and 27,  
3 as stated in my appeal. These are technical  
4 changes and should be corrected, so as to avoid  
5 any confusion. Number two is the modification  
6 to condition number two and number six. DIR-  
7 2006-6829 has expired, and pursuant to the  
8 Municipal Code, no change is permitted on a  
9 brand new director's determination. Deferring  
10 to it would, uh, co--um, would only confuse the  
11 CUB proc--process, and the protections  
12 established for the community and the proposed  
13 alcohol use, with compliance with the specific  
14 plan regulations, again, creating further  
15 confusion. Uh, number one is, um, the abuse of  
16 discretion by the ZA's office. Um, the hearing  
17 notice on, on modifications of conditions  
18 numbers six and seven, the public hearing, as  
19 stated in the hearing notice for September 20th,  
20 2010, was to, and I quote, review the  
21 effectiveness and compliance of the conditions  
22 of approval, for the continued operation, use,  
23 and maintenance of an existing restaurant,  
24

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1 serving beer and wine, for onsite consumption,  
2 as an accessory use. Nothing in the public  
3 notice acknowledged that the applicant saw any  
4 changes in the existing conditional use permit.  
5 The applicant did not even request a  
6 modification until December 1st, 2010, when the  
7 representative sent an e-mail to Fernando Tovar,  
8 first suggesting that the zoning administrator  
9 had the authority to make certain changes and  
10 modifications, and then, providing language for  
11 some of the modifications shown in the final  
12 approval. The community was never made aware  
13 that changes to the original approval were  
14 thought--were sought. In fact, even the zoning  
15 investigator's report, which is in the file,  
16 states that, quote, unquote, no expansion or  
17 development is requested. Now, the community  
18 should have an opportunity to provide input to  
19 the initial decision maker, in regards to any  
20 changes, so it may adverse--adversely affect our  
21 neighborhood, so as to appropriate conditions  
22 could be imposed, not through my appeal as a  
23 corrective measure to the ZA's abuse of  
24

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discretion, but certainly, you Commissioners are qualified to make such, uh, uh, corrective conditions. Uh, but it would be most appropriate to have these changes heard at the initial hearing, um, so the public could weigh in on the project. In any case, the ZA stated that, quote, unquote, the record is not clear whether, in limiting the seat capacity, the ZA also intended to limit the intensity of the use, or was it simply a reflection of the applicant's proposal? And the question of seating capacity and associated parking is a technical issue governed by the Venice Coastal Zone Specific Plan. First the question of seating capacity is not governed by the Venice Coastal Zone Specific Plan, which places limit only on service floor. Limitations in seating capacity, on the other hand, are traditionally one of the primary tools that the zoning administrator uses in considering whether to grant discretionally conditional use permits for serving alcohol. Ser--seating limitations help to make sure that impacts to the neighborhood from alcohol serving

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1 restaurants use are minimized. Such impacts are  
2 not limited only to parking, but also include  
3 late night noise, which we have, litter, public  
4 intoxication, etcetera. Such impacts are not  
5 limited only to parking, but also include, um,  
6 oh, sorry. I already read that. Here, the  
7 seating in the outdoor dining area is at least  
8 40, where originally, it was approved for 16,  
9 and so, it's more than twice what was allowed by  
10 the CUB. Um, and the, you know, the, the ZA  
11 found that the area, the outdoor patio, is  
12 routinely used past 11:00, which is another, um,  
13 condition and--of the CUB, and noise can be  
14 heard in the nearby residential areas. So--and,  
15 and the ZA, um, also acknowledged that a video  
16 was submitted showing that music can be heard  
17 emanating, uh, from the restaurant onto the  
18 sidewalk adjacent to the premises, um, uh, to  
19 the residences on Milwood Avenue. Second, the  
20 ZA's original approval was able to make  
21 necessary findings in the affirmative that,  
22 because it--the small si--quote, unquote, the  
23 small size of the restaurant, and that it was  
24

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limited to 44 seats within the building, and an additional 16 seats within the rear outdoor area. It was also stated that, quote, unquote, a review of letters to the file and testimony given at a public hearing have led to the fashioning of a number of conditions, the intent of which is to - - to protector--the protection of the community. These conditions include number six and number seven, which limit the floor area, strictly, and I don't mean service floor area, just restaurant area, you know, that includes the kitchen, uh, to 2,619 square feet, and the seating to a maximum of 44 indoor seats and 16 outdoor seats, for a total of 60 seats. To suggest that the zoning administrator's only intent in imposing certain conditions was simply a reflection of the applicant's proposal is not reasonable, not so--nor does it fairly reflect the deliberative process performed by the applicant, the community, which include over 40 communications from the public and the zoning administrator. Third, and most important, Section 1224-W-1, which governs the original

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conditional use permit states that, quote,  
unquote, establishments dispensing alcohol  
beverages may not be continued without a  
conditional use, if there is a substantial  
change in the establishment, including any  
expansion by more than 20% of the floor area,  
seating, or only if the expansion is the--or  
only if the expansion is less than 20% of the  
floor area, seating, or occupancy can the plan  
approval process be used. So there's no  
discretion in this interpretation allowed, and I  
provided, uh, a section of the Code. I also  
provided, um, the zoning administrator memo 78,  
which, uh, the Department uses to help clarify  
certain ambiguities in the code, and that states  
that, in no event, quote, unquote, uh, quote  
unquote, plan approval shall be used to expand  
the site or to change an explicit condition or  
language of the grant of the original  
authorization, period. Now on compliance, the  
zoning administrator found, quote, unquote, the  
operation is not in full compliance to all its  
conditions, which he's already said, yet, grants

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relief from various operational conditions.

First and most importantly, the applicant was cited by Department of Building and Safety for remodeling the upstairs dwelling, which we've already talked about, um, and we still, um, contend that it is being used, even though the applicant, um, says that, you know, it's a residence and they have parties there. Um, other violations include the expansion of the service floor area, which is a violation of DIR-2006-6829-SPP, which is included in number 26, the use of the patio after 11:00 p.m., noise heard beyond the property, the lack of STAR training by all employees serving alcohol, and the delay of the applicant filing for a request plan approval. So ultimately, these violations are willful intent of the applicant to disregard the conditions imposed by the zoning administrator, which were designed to protect the best interests in the neighborhood, and granting these, the instant request in its current form would be rewarding this behavior.

Um, and by the way, having--the restaurant was

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1 never meant to have 105 employees. I mean, uh,  
2 the, you know, the size was 60 seats and, um,  
3 the fact that they have over exceeded their,  
4 their capacity, it's, it's really unreasonable,  
5 for us, the people who live adjacent to the  
6 restaurant. And with that, I would ask the  
7 Commission to please grant my appeal, in part,  
8 number one, by making the corrections to the  
9 various conditions discussed at the outset, uh,  
10 the mistakes that are mentioned in my appeal,  
11 including the changes made regarding DIR-2006-  
12 6829, number two, to maintain the original  
13 conditions of the zoning administrator, in  
14 regards to a maximum of 2,619 square foot floor  
15 area, and a maximum of 44 indoor seats and 16  
16 outdoor seats, for a total of 60 seats, number  
17 three, to require another public hearing at the  
18 time of the applicant's attempt to renew the  
19 conditional use permit. This would provide the  
20 applicant one more opportunity to demonstrate  
21 compliance with the conditions set forth. And  
22 by the way, it's been very hard to get Building  
23 and Safety to go out and, and file an order to  
24

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2 comply, after hours because most of these, um,  
3 uh, you know, violations occur after hours. So  
4 we're helpless here, and we need to bring this  
5 back to what it was originally approved, and  
6 make the applicant comply, and that is all we  
7 want. And we don't want the restaurant shut  
8 down. We know it's a popular restaurant. Um,  
9 and--but this is not about popularity. This is  
10 about following due process, and if they want to  
11 increase their capacity, they have to pro--go  
12 through the appropriate channels and do that,  
13 but first, they have to comply with conditions  
14 of approval and they have to--they have to come  
15 back to comply with what they were approved for,  
16 period. Thank you very much.

17 FEMALE VOICE 1: Thank you. Any questions  
18 from the Commission? Mark Armbruster? Name and  
19 address for the record, and you have 10 minutes.

20 [END 04ZA-6-5028\_Part 1]

21 [START 04ZA06-5028\_Part 2]

22 MR. MARK ARMBRUSTER: Uh, thank you. Mark  
23 Armbruster with Armbruster, Goldsmith and  
24 Delvac, 11611 San Vicente Boulevard, Los

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1 Angeles, California, um, and, uh, we represent,  
2 uh, Gjelina Restaurant, the applicant, and Fran,  
3 um, Camaj, who is the owner of the restaurant  
4 here, uh, today. By the way, I'd like to start  
5 by saying just a couple of things from what I've  
6 heard. First of all, I think this is a, a  
7 wonderful, nice restaurant. My wife and I  
8 happen to frequent a lot, love the restaurant.  
9 Um, I think it's, it's as--clearly, as the  
10 Mayor's office said, great for jobs, great for  
11 the--great for the area. I think it's great for  
12 the community. Uh, it's not a bar. It's a  
13 wonderful restaurant. They don't have a full  
14 line of alcoholic beverages like bars do. Uh,  
15 they, uh, you know, it's just beer and wine, uh,  
16 served with the food. Also, I'd like to say,  
17 contrary to sort of the impression that's been  
18 given here, I think this restaurant, for the  
19 most part, complies with all of their  
20 conditions, um, and certainly, plans to, uh,  
21 comply with all their conditions. This is not a  
22 case of massive un-compliance, uh, with--or non-  
23 compliance, I should say, uh, with conditions.  
24

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1 The upstairs is not used for a dining room.  
2 That's been checked. Mr. Tovar checked it,  
3 himself and, and, uh, you know, Building and  
4 Safety has been there. It is not used for  
5 dining. It's, it's, uh, Fran's apartment that  
6 he has upstairs. Uh, there's not an office on  
7 the ground floor. Um, the, uh, patio was always  
8 allowed to be used for dining, um, and it  
9 continues to be. There is no amplified music.  
10 There is light--there is background music, um,  
11 as if allowed, and if, in fact, there is any  
12 leakage of music outside the property, uh, that  
13 shouldn't happen, and I've talked the owner  
14 about that, and he will try to make sure, uh,  
15 that that does not happen. Um, with regard to  
16 the number of employees, which I, by the way,  
17 think employees are a wonderful thing to have,  
18 especially in today's economy, um, you know,  
19 most of the--most restaurants that are  
20 successful, most restaurants aren't successful.  
21 Those that are successful, uh, you know, have a  
22 lot of various type of employees, from the, you  
23 know, the service employees, to the waiters and  
24

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1 the captains and it takes a--to the people that  
2 buy the food and, you know, it takes a lot of  
3 people to run the restaurant. A lot of those  
4 people also, a good part of them, come to the  
5 restaurant on public transportation, so they're  
6 not all people that drive there, uh, to use  
7 cars. But anyway, I just wanted to give you  
8 that sort of overview. I do not see this, in  
9 any way, and especially--and a matter of fact,  
10 I'd be glad to go down every single one of the  
11 conditions of approval and let's see whether we  
12 have a, a situation where lots of conditions  
13 have been violated. I don't think so. Um, now,  
14 you know, I'll be happy to, you know, run  
15 through that, uh, that exercise if, if we would  
16 like to. Um, Mr. Tovar, I think, did a good job  
17 of, of running through some of the background  
18 and a little bit of a confusing background of  
19 this case. You know, it was--originally,  
20 there's a project permit compliance in 2006,  
21 where the space used to be retail and a--and  
22 lab--laboratory space, approved for a change of  
23 use to a restaurant, and then, in addition, a

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1 application was filed for a conditional use  
2 permit for service of alcoholic beverages. The  
3 owner wanted to do--have a bar and a full line  
4 of alcoholic beverages and live entertainment.  
5 The zoning administrator, Al Landini, at the  
6 time, uh, was opposed to that, and he was in  
7 favor of the beer and wine, but he did not want  
8 a bar, did not want live entertainment, and he  
9 did not want a full line of alcoholic beverages  
10 which is why, by the way, uh, the plan that was  
11 submitted by the applicant at the time, which  
12 was the--was this plan, and I have copies if you  
13 would like, but it clearly says the plan was to  
14 be revised. The reason it was to be revi--and  
15 this is the plan assoc--that had 60 seats, and  
16 it was to be revised because the bar was going  
17 to be removed, and in the bar's place, would be  
18 additional seats, and furthermore, in this area,  
19 the specific plan deals with service floor area,  
20 as opposed to seating. Service floor area is  
21 determined, in this case, by the, um,  
22 grandfathered parking spaces, and the service  
23 floor area is actually 1,300 square feet, which  
24

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one of the conditions of Mr. Tovar's approval is to submit a revised plan showing that, and, and that is, is then subject to the director's, uh, approval or the director's assignee approval of that plan. Um, we plan to immediately, uh, do that, even though the restaurant has been operating in compliance with that plan, uh, for some time. So, you know, talking about compliance, again, you know, we can go through each and every one of the I don't know how many conditions of approval there are, and we can see whether they're being complied with or not. But the intent is to comply with, with everything. Um, so one, one of the things we plan to do is immediately, upon, hopeful--hopefully, the effectiveness of this, uh, plan approval is to submit the revised plan to the director of planning, showing the revised service floor area, which is ve--consistent with the Venice Coastal Specific Plan, and that'll also, um, that'll include the removal of that bar from the plan that's been on the records, but which clearly has not--it's not been operated with a

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bar, so the plan will confirm that. Uh, it will show the--that the noise barrier that has been referred to is, in fact, in place, on the eastern and southern edges of the patio, and we'll submit photographs showing, uh, that that is and has been in place. There is full compliance on that. Um, the, uh, patio, uh, is not supposed to be used past 11:00 p.m., and my understanding is that that is the way it has been operated. Uh, if, if there has been an instance where that has not happened, the owner must comply with that, and, uh, and he knows that. We've had a, a talk about that, and he says that, uh, uh, that is being complied with. Uh, also, there's the existing one car garage space behind the facility. I know, at times, that has been used as storage, um, and that is one of the areas that need--needs to be made sure that that is parking at all times. Um, but again, these are--these are minimal instances of possibly being outside the conditions of approval, but, you know, again, there are 50 conditions, all of which are being complied

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1 with. Um, also, as I said, the maximum seating,  
2 according to Mr. Tovar's decision, will be  
3 determined by the director of planning, in  
4 conformance with the Venice Coastal Specific  
5 Plan, uh, and we will be submitting the plan,  
6 uh, to show that. Uh, I also talked--also  
7 talked about the indoor background music, um,  
8 whatever, you know, proof we need to show of  
9 that, but again, the, the sound is not to be,  
10 uh, audible beyond the boundaries, uh, of the  
11 property. Uh, one other statement that was made  
12 was that, uh, and, and as a condition of  
13 approval, is that all employees involved in the  
14 sale of alcoholic beverages have STAR training,  
15 and it was alleged in the appeal that that has  
16 been violated. That has absolutely been  
17 complied with. All employees serving alcoholic  
18 beverages, uh, have--are--have had STAR  
19 training, and, uh, evidence of that, uh, from,  
20 uh, the LAPD to the zoning administrator, uh,  
21 were provided, and any future employees will  
22 also, uh, fully comply with that. So I don't  
23 know how much time I've used, but, uh, again, I,  
24

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1 I, I, I think I would rather, at this time, uh,  
2 say that we're open to answer any questions,  
3 with regard to, uh, uh, Commissioner Donovan,  
4 you asked about uh, uh, alleged violations. And  
5 again, I'm saying this is not a facility that  
6 has gone out and free willing, you know, uh, in  
7 violation of conditions of approval. As a  
8 matter of fact, it's, it's just the opposite.  
9 There is the question, uh, with it because it's  
10 a confusing record, with regard to, uh, the  
11 amount of seating and the floor area, but we  
12 believe the floor area and the seating is  
13 governed by the--or the seating is governed by  
14 the, um, by the, uh, service floor area, as  
15 provided in the Venice Specific Plan. That's in  
16 Mr. Tovar's decision, which we intend to fully  
17 comply with. And if, when we submit that plan,  
18 they disagree, then, you know, well, um, then,  
19 then, they disagree and, and we comply with  
20 whatever their determination is. So with that,  
21 um, again, I'd be happy to answer any questions  
22 now or later, but again, I think this is a, um,  
23 a--and it's a wonderful restaurant. It's a  
24

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2 wonderful place in the community, um, and, uh,  
3 you know, it's a, a great place to be. So many  
4 of these type of places you have that have  
5 police problems and other things. This is--this  
6 is just a, a terrific restaurant to, to go to,  
7 and I hope it's, um, allowed to continue to  
8 operate it as, as it has been. And finally, to  
9 the extent that there have been any issues with  
10 anybody, um, in the community, I'm sure the  
11 owner would be--love to talk to those people  
12 and, uh, and, i--if there is a problem or if  
13 there is, uh, a--some apparent violation of, uh,  
14 people think a condition is being violated, let  
15 us know, and it will be taken care of, but we  
16 don't believe there is, and that's why there are  
17 so many people from the community here today, in  
18 support of this restaurant also. Thank you.

19 FEMALE VOICE 1: Thank you. Any questions  
20 from the Commission?

21 COMMISSIONER DONOVAN: Commissioner Donovan,  
22 yeah, yeah.

23 MR. ARMBRUSTER: Sure.

24 COMMISSIONER DONOVAN: I have--I have some

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1 questions for--so it--it's my understanding  
2 from--it--it's, uh, your client's position that  
3 no conditions have been violated, whatsoever?  
4

5 MR. ARMBRUSTER: I did not say that.

6 COMMISSIONER DONOVAN: Okay. Well, I, I  
7 need to--

8 MR. ARMBRUSTER: [Interposing] Yeah.

9 COMMISSIONER DONOVAN: --I need to hear that  
10 then. Have any conditions been, been violated?

11 MR. ARMBRUSTER: I said I think the, um,  
12 issue of the, um, the gara--the one space  
13 garage, I think, at times, has been used for  
14 storage, I understand, and it's supposed to be  
15 used for parking. Um, somebody said it today  
16 and I, uh, with regard to the patio, I believe  
17 the patio has been--all service is stopped at  
18 11:00 p.m. Uh, if somebody says that's been--  
19 slipped a little bit, I'm, I'm just--I don't  
20 believe that it has, but, um, and, you know, the  
21 owner has--the owner has told me that he stops  
22 service at 11:00 p.m., so, um.

23 COMMISSIONER DONOVAN: So those are the only  
24 two?

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MR. ARMBRUSTER: I, I--there's no upstai--  
there's no use of the upstairs for dining, so--

COMMISSIONER DONOVAN: [Interposing] Uh, at  
no--at no time has the restaurant served food in  
the upstairs?

MR. ARMBRUSTER: The--as far as I know, the  
restaurant does not serve food in the upstairs.

COMMISSIONER DONOVAN: And how--

MR. ARMBRUSTER: [Interposing] And  
absolutely. I mean, the answer is never.

COMMISSIONER DONOVAN: Okay.

MR. ARMBRUSTER: The answer is yes, never.

COMMISSIONER DONOVAN: And the upstairs is,  
is occupied as a dwelling unit?

MR. ARMBRUSTER: Yes.

COMMISSIONER DONOVAN: And was it remodeled  
without permits?

MR. ARMBRUSTER: Um, I haven't been involved  
in that part of it. Was it?

MALE VOICE 1: It started. It started - - .

COMMISSIONER DONOVAN: Well, we can't--  
you're not in front of a mic, so--

COMMISSIONER FOSTER: [Interposing] Yeah,

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we--yeah, we need you to--

COMMISSIONER DONOVAN: --you could step up,  
uh, uh, later.

COMMISSIONER FOSTER: Yeah.

COMMISSIONER DONOVAN: Uh, so I get--I get  
the picture.

MR. ARMBRUSTER: Yeah, it, it, it was being  
remodeled. Now, I think the apartment unit is  
not part of the restaurant--

COMMISSIONER DONOVAN: [Interposing] Okay.  
And--

MR. ARMBRUSTER: --some - - decision.

COMMISSIONER DONOVAN: --ha--have you  
applied for any changes to the conditions that  
were previously imposed, as we stand--sit here--  
stand here today?

MR. ARMBRUSTER: No, we have not, uh,  
complied--we, we have not done that. I know one  
of the issues that was raised by the appellant  
was, um, she said that the, uh, zoning  
administrator did not have the authority to  
change any condition, um, such as seating, to  
comply with service floor area, uh, for example,



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1 but, in fact, the Los Angeles Municipal Code  
2 specifically allows the zoning administrator,  
3 uh, to make changes in conditions, whether or  
4 not they've been, uh, applied for. The zoning  
5 administrator has authority to do what the  
6 zoning administrator thinks is appropriate in  
7 their case. I'll give you those Municipal Code  
8 Sections, if you would like.

9  
10 COMMISSIONER DONOVAN: Um, I'm sorry to  
11 interrupt you. Uh, when do you intend to apply  
12 for changes to conditions?

13 MR. ARMBRUSTER: We don't.

14 COMMISSIONER DONOVAN: Okay. How many seats  
15 are in the restaurant right now?

16 MR. ARMBRUSTER: I think, um, 100, 100.

17 COMMISSIONER DONOVAN: And how many  
18 employees does the restaurant employ right now?

19 MR. ARMBRUSTER: I believe 105. And by the  
20 way, if I could clarify, we do not plan to ask  
21 for any changes in conditions. What we do plan  
22 to do is submit all the, the revised plans and  
23 so forth that were referred to and requested in  
24 Mr. Tovar's decision. Uh, we intend to fully

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1  
2 comply with that decision, not to ask for any  
3 changes.

4 COMMISSIONER DONOVAN: Um, there were--it  
5 seemed to me I saw evidence that there were, uh,  
6 a limitation on the number of seats, uh, to 44  
7 seats indoor, and 16 on the patio.

8 MR. ARMBRUSTER: Mm-hmm.

9 COMMISSIONER DONOVAN: And you say you now  
10 have 100 seats.

11 MR. ARMBRUSTER: Mm-hmm.

12 COMMISSIONER DONOVAN: So is it your  
13 contention that the other condition was invalid,  
14 or you didn't have to follow that?

15 MR. ARMBRUSTER: No, what, what happened is,  
16 in 2006, uh, when there was a change of use to  
17 the specific--for the specific plan, um,  
18 compliance, project compliance permit, uh, at  
19 that point and at this--roughly the same time,  
20 when the application for service of alcoholic  
21 beverages, the CUB, was applied for, uh, at that  
22 time, the applicant submitted a plan that had  
23 the 60 seats, mostly in the restaurant, some in  
24 the patio, uh, and also included a bar, and that

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1 was the applicant's submittal. But then, the  
2 zoning administrator, Mr. Landini, said he  
3 didn't like that plan, and he wanted the bar--  
4 didn't want a full line of alcoholic beverages,  
5 or live entertainment, or the bar, so that's why  
6 the plan that was submitted ultimately said to  
7 be revised, and because it was--instead of a  
8 bar, you have seats. And so, that's--was the  
9 genesis of all of that.  
10

11 COMMISSIONER DONOVAN: But then, there was--  
12 the CUB was issued with the condition that there  
13 only be 44 indoor seats, and 16 on the patio.  
14 Isn't that correct?

15 MR. ARMBRUSTER: But it was--but--yeah, but  
16 it was also--I reference the, the plan, which  
17 was going to be revised, and the plan, the, the  
18 plan had a--again, the plan had a bar in it, and  
19 rather than having empty space, um, the intent  
20 was that they replace the bar with seating. I  
21 mean, you would have had seats at the bar  
22 anyway, so.

23 COMMISSIONER DONOVAN: And--but both of  
24 these decisions, the one for the change of use,

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1 and the one for the, um, the CUB, they had  
2 occurred in 2006, both of them in, in 2006,  
3 correct?  
4

5 MR. ARMBRUSTER: 2006 was the project permit  
6 compliance, and 2007 was the CUB.

7 COMMISSIONER DONOVAN: And then, why, if  
8 your client wanted to have more seats than the  
9 44 and 16, and he knew that there was a  
10 condition imposed in 2007 for the CUB, why is it  
11 now that we're in 2011, and your client still  
12 has not applied for the increased seating?

13 MR. ARMBRUSTER: Well, the, the, um, first  
14 of all, the restaurant and--did not open in 2006  
15 or 2007. It opened in 2008, um, and then, I  
16 think it was actually in 2009 that he filed for,  
17 uh, the plan approval, and I, I, I believe that  
18 he thought that the plan was going--the plan  
19 that was submitted, Landini--Mr. Landini, you  
20 know, did not want to approve the plan that was  
21 submitted that had the 60 seats and all of that,  
22 and he should have--yes, he could have and  
23 should have submitted the revised plan earlier.  
24 Uh, that would have clarified it. That's why

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Mr. Tovar is clarifying everything now. Uh, but, in fact, in Venice, the way the--the way, uh, seating is set is not based upon seats, but is based upon the service floor area calculation, which is based upon, um, these grandfathered, uh, parking, uh, provisions they have in the Venice area.

COMMISSIONER DONOVAN: So if you got the, uh, modified service floor area increased, would that then justify a hundred seats in that restaurant?

MR. ARMBRUSTER: Yes.

COMMISSIONER DONOVAN: Not 60, a hundred?

MR. ARMBRUSTER: Yes, a hundred, a hundred, absolutely.

COMMISSIONER LEE: I have some questions.

COMMISSIONER DONOVAN: Oh, sure. Go ahead.

COMMISSIONER LEE: When you first started the business, I'm sure you didn't start it with a hundred seats. You kind of gradually grow them to the business. Is that correct? When you first started, you didn't have a hundred tables or a hundred seats?

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MR. ARMBRUSTER: Actually, I don't know.

COMMISSIONER LEE: Yeah, is that right?

You--as the business increased, you guys added more seats or occupancy, so to speak, right?

Yeah.

FEMALE VOICE 1: Yeah, we need to use--to the microphone, please, for the record.

COMMISSIONER LEE: So when you first started, you got 44 seats and 16 seats, and you've realized you're in compliance, so to speak, and the business picked up, so you kind of added another table and another chair, over time?

MALE VOICE 2: That's accurate.

COMMISSIONER LEE: Okay. Also, here, in the public hearing, it says the applicant furnished a copy of the certificate of occupancy by the fire department that'll allow you to have 122 people, right?

MALE VOICE 2: Yes.

COMMISSIONER LEE: Okay. No more--no further questions.

COMMISSIONER FOSTER: I have--I have one

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question, Commissioner Foster. How many seats do you have on the patio now?

MR. ARMBRUSTER: How many are there?

MALE VOICE 2: About 35.

MR. ARMBRUSTER: Thirty-five.

COMMISSIONER FOSTER: Now, what I don't understand is, because the patio is limited to 16, that had nothing to do with the bar. That seems to me like, when the--when the ZA said 16 seats on the patio, that should have been what should be on the patio, is 16 seats because he was--there was noth--no bar out there. It was just the patio. I, I think that--

MR. ARMBRUSTER: The, the ZA didn't say 16 seats or 44 seats or--the Z--in fact, the applicant, the owner, submitted a plan, said this is the number of seats that I'm proposing to have.

COMMISSIONER FOSTER: Right.

MR. ARMBRUSTER: And here's going to be a bar. The zoning administrator did not like that plan, and so--

COMMISSIONER FOSTER: [Interposing] I know--

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I understand that.

MR. ARMBRUSTER: Right.

COMMISSIONER FOSTER: I'm just saying that the zoning administrator, whether--I, I don't--I don't know what Mr. Landini had in mind, and, and, uh, I--other than he didn't want the bar, but I can say that, on the conditions, there are 16 seats on the patio. I can understand if you had 44 inside, and the bar was removed--

MR. ARMBRUSTER: [Interposing] Mm-hmm.

COMMISSIONER FOSTER: --and you had more room for seating. But on the patio, at no time, would--should there be more than, than what was allowed, um, and 16 seats, I think, for the neighborhood and for everything else, for noise and everything, could have been--I mean, I don't--we can't judge what his--is all we have is what the conditions were given.

MR. ARMBRUSTER: Right.

COMMISSIONER FOSTER: And we don't know-- normally, when conditions are given, and we found this and, and I have been with this Commission many years, that seating is, is very



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1 thought out. I mean, I've never seen a zoning  
2 administrator just, out of the air, pull seats.  
3 I mean, I think it comes through looking at the,  
4 the neighborhood, the conditions, the, the  
5 parking and everything else. So, um, that,  
6 that, to me, I, I don't--I don't know how the  
7 increase in seating should be considered, um,  
8 following the conditions. I think--

10 MR. ARMBRUSTER: [Interposing] But I just--  
11 you know, I, I hear what you're saying, but I  
12 think that the increase--the seating should be  
13 governed by the specific plan and the service  
14 floor area, which does not deal with specific,  
15 specific number of seats, but rather, the area  
16 where seating can be. Now, if there is an--

17 COMMISSIONER FOSTER: [Interposing] And  
18 excuse me. One second, though.

19 MR. ARMBRUSTER: Yeah.

20 COMMISSIONER FOSTER: Many times, we have  
21 not gone just by that, the seating floor ratio.  
22 We go by other iss--other community concerns.  
23 We go by parking availability, impact, so I  
24 don't--I don't think that that's a hard, fast

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thing that you can say.

MR. ARMBRUSTER: Well, I understand what you're saying. - - I--so what I would ask you to do is listen to some of the people in the community who think this is a wonderful restaurant--

COMMISSIONER FOSTER: [Interposing] Oh, I'm sure.

MR. ARMBRUSTER: --that doesn't, doesn't impact the community, uh, and except for in a positive way, and it--furthermore, if we're concerned about--if you're concerned about the number of seats in the patio, is it--I think what you're saying is it's not just because, uh, there's X number of seats, but do those seats have an impact on somebody.

COMMISSIONER FOSTER: Right.

MR. ARMBRUSTER: And if they have an impact on somebody, what I'd like to suggest or ask you at least to consider is, you know, restaurants are a tough business. It's tough staying in business. You know that. You see that all, all the time. More--you know, 85% of restaurants

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1 fails, and so, it's great when you have ones  
2 that, you know, provide a good service and do a  
3 good job. If we can--if we can craft  
4 conditions, so that we make sure that those--the  
5 seating in the patio does not impact any  
6 residential neighborhood, uh, neighbor, that--  
7 that's fine. A matter of fact, I, I think the--  
8 I believe the--one of the people that, um, had  
9 claim--had complained about noise, um, lives,  
10 you know, a decent distance away, uh, much  
11 closer to a bar. There's a bar over here, and a  
12 bar over here, and the restaurant, uh, in, in  
13 the middle, and the, you know, the bar is a full  
14 line of alcoholic beverages and they're bars.  
15 They, you know, create, uh, more problems. But  
16 then again, I'm getting off track. If we can,  
17 you know, attack the problem, if there is one,  
18 and that is if, if seating in the patio is  
19 causing a noise problem, then we've got to  
20 figure out how to solve that noise problem.

22 COMMISSIONER FOSTER: Okay. We'll, we'll--

23 MR. ARMBRUSTER: [Interposing] So that's  
24 what I'm suggesting.

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2 COMMISSIONER FOSTER: Okay. Thank you.

3 FEMALE VOICE 1: Thank you.

4 COMMISSIONER DONOVAN: Commissioner Donovan,  
5 one, one, one last question. Uh, the, uh,  
6 upstairs dwelling unit, is that a full and  
7 regular dwelling unit, with kitchen facilities,  
8 showers, bathrooms?

9 MR. ARMBRUSTER: Yes.

10 COMMISSIONER DONOVAN: Okay. 'Cause I did--  
11 we did receive a letter here that says that the,  
12 uh, um, the upstairs existing shower room was  
13 remodeled as a men and women's restrooms. Is  
14 that true?

15 MR. ARMBRUSTER: No.

16 COMMISSIONER DONOVAN: Okay. Thanks.

17 FEMALE VOICE 1: Thank you.

18 COMMISSIONER LEE: May I ask a five minute  
19 break?

20 FEMALE VOICE 1: Yes. We'll take a--

21 COMMISSIONER LEE: [Interposing] - - minute  
22 break?

23 FEMALE VOICE 1: --a--

24 COMMISSIONER LEE: [Interposing] Two minute

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break?

FEMALE VOICE 1: --a quick two minute break.

COMMISSIONER LEE: Thank you.

FEMALE VOICE 1: And we'll be right back.

Well, - - . Okay. We're back on the record.

COMMISSIONER LEE: Thank you.

FEMALE VOICE 1: We have a lot of speakers.

Um, so if everyone will have two minutes. Um,

don't forget to give your name and address for

the record. And if someone else has already

made the same point, you can just say that you

agree, and we would really appreciate it, so we

can move this along. Um, Mark Rieves

[phonetic], I'm sorry. I can't read your last

name. You're with the Venice...

MR. MARK RYAVEC: My name is Mark Ryavec.

FEMALE VOICE 1: Ryavec.

MR. RYAVEC: Uh, I'm the president of the Venice Stakeholders Association. My address is

453 Rialto Avenue, Venice, California. I live

about three blocks away from this restaurant.

Um, I'd like to, um, well, just briefly, the

Venice Stakeholders Association is concerned

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1 with civic improvement in Venice. Uh, we've  
2 been--appeared before you on several other  
3 projects. We are very concerned about parking,  
4 um, in Venice, uh, and I'd like to give you my  
5 brief overview of the parking problem in Venice,  
6 just to reacquaint you one more time because  
7 you're, you're focused on minutia here. You're  
8 focused on whether or not one dwelling unit has  
9 been used for food serving, whether there's some  
10 noise being heard over on Milwood, or over on  
11 Electric. The issue here is that Venice was  
12 built without sufficient parking. This area,  
13 um, just off of Abbot Kinney was all canals.  
14 There was no requirement for off street parking.  
15 The only parking that many residents have in  
16 this area is street parking. When you allow  
17 the, uh, them to have 40 more seats than they  
18 are required--than they are allowed to, that  
19 means, what, another 20 cars in our  
20 neighborhood? Then, you have the employees'  
21 cars in our neighborhood. The reason there are  
22 limits on this grant, uh, the CUB and in the  
23 project permit, to those number of seats, of 60  
24

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seats, is because of the fact that this building was grandfathered. They do not provide--didn't provide any parking, so you've got 60 seats generating cars, the employees serving them generating cars, and they provided zip, and all of that parking goes into our neighborhood, their neighborhood, other people's neighborhood, and that's the point--the reason that you should--I would urge you to ho--they have been exceeding and violating their grant, by their own admission, for at least three years, if they opened in 2008. I would urge you to re--put those numbers, the 44 and the 16 back in, and let them come in with a formal public process to make an--a change in that, and not use this process as a way to get out of it. Lovely restaurant, but they really need to be--they need to comply and we'd really ask you to help us out, to protect the community, um, because it's become intolerable, um, because people coming home cannot find--you come home at 10:00 at night and you can't find a place to park. And so, you've got people having to walk three

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1 or four blocks, exposing themselves to an  
2 environment where, just, um, three weeks ago, a  
3 home--a transient killed another transient over  
4 a beer. One block from here, behind us, a  
5 mentally ill person followed a woman, pregnant  
6 with kids, into her house and raped her and  
7 killed her. This is one block from that  
8 restaurant. It doesn't have anything to do with  
9 the restaurant. The point is that when people  
10 can't park near their houses, you create a  
11 certain exposure, and we would ask that you--  
12 there was a reason for this grant, and this  
13 grant should be observed, going forward. Thank  
14 you.  
15

16 FEMALE VOICE 1: Thank you. Jacqueline  
17 Lavin [phonetic].

18 MS. JACQUILINE LAVIN: Jacqueline Lavin, 448  
19 Rialto Avenue, Venice, and I'm a long time  
20 Venice resident. I'm here to support the  
21 appeal. As illness has prevented Brian Finney  
22 [phonetic] from appearing in person, he asked me  
23 to read out this statement on his behalf. He  
24 also lives at 448 Rialto. I have lived in

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Venice for almost 24 years, in a residence that is about five to six minutes' walk from the applicant's premises. I strongly support Arminda Diaz' appeal against the zoning administrator's approval of plans and determination of partial compliance concerning 1429 Abbot Kinney Boulevard. Gjolina has consistently flouted planning regulations, in pursuit of a larger client base and corresponding profits. I have attended meetings of the Venice Neighborhood Council and its Land Use and Planning Committee, at which the restaurant has been denounced for its flagrant abuse of its conditional use permit and the negative impact this has had on the surrounding residential neighborhood. The zoning administrator's determination of approval of plans failed to show that the VNC had rejected the unapproved expansion of seating, the unapproved expansion of service floor area, and the unapproved use the patio after 11:00 p.m. In effect, the zoning administrator is enabling the restaurant to increase seating without the

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2 proper due process that otherwise would require  
3 a public hearing and a new CUB, thus  
4 disregarding the surrounding neighborhood. Why  
5 have planning codes and rules, if they are not  
6 enforced? I urge you to represent the interests  
7 of the local community by granting the appeal.

8 FEMALE VOICE 1: Amy Alkin [phonetic].

9 [END 04ZA06-5028-Part 2]

10 [START 04ZA06-5028-Part 3]

11 MS. AMY ALKIN: Thank you so much. I live  
12 at 1518 Electric Avenue, about half a block from  
13 Gjelina. I'm bothered by the noise from their  
14 patio regularly, and sent Judge Tovar a  
15 videotape. I believe I took it at 11:15 p.m. at  
16 night. Unfortunately, we can't get building and  
17 safety to come out; they won't come out after 6,  
18 so there's nobody to protect us. Now, I'm sure  
19 Gjelina is popular and wonderful; I know it's  
20 popular. But if jobs are to be lost and money  
21 is not to be made so hand-over-fist, it's about  
22 them abusing our neighborhood with double the  
23 amount of seats they were allowed. Arminda drew  
24 up these extensive plans, and only because of

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her do we maybe have a chance of not being so abused as we have. This man spoke of the danger. My neighbor, Patty Arpaia, couldn't be here. This is a hard time. There are a lot of people who care about this who can't; 4:30, she's working. She comes home at night, late at night, with camera equipment, and we always-- I've lived in Venice for 15 years. We've always been able to park on my block, until this restaurant was allowed to open and take over all our parking. She now parks blocks and blocks away. You heard of the dangers. What we ask-- oh, so these people opened this restaurant. They saw that our neighborhood was right for abusing, that they could snap up our residential parking and save big on the normal cost of opening a restaurant, the extra space that one must buy or lease for customers and employees to park their cars. My favorite was at one of the Venice meetings where one of their employees said, "All of you residents just want a place to park your automobiles." Well, yes, it is untenable for me to drive up and down Lincoln

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1 until 2 o'clock in the morning. I mean, I need  
2 to, yes, park safely. We ask that you not  
3 decide this on the popularity of Gjelina or in  
4 pity for their employees. They should have  
5 opened somewhere else. We in my neighborhood  
6 initially didn't like this deal where they were  
7 allowed to open a 60-seat restaurant with zero  
8 parking spaces, spaces grandfathered in on  
9 paper. I don't know about you, but I cannot  
10 park on a sheet of paper. It's terrible,  
11 terrible now. Now, if they had stuck with the  
12 seats they were given, and not had loud music  
13 playing outside, and not done all these other  
14 lack of compliance type activities, we wouldn't  
15 be complaining. Is that the end of my time?

16 COMMISSIONER JOYCE FOSTER: Yes.

17 MS. AMY ALKIN: Okay. I just--can I just  
18 say one other thing to finish up? If Gjelina is  
19 allowed to ignore the law, no business will need  
20 to stick to it, and we'll all be--no one will  
21 ever be able to live there again, on Abbot  
22 Kinney, near Abbot Kinney, or park, or have a  
23 safe time. It'll just be a big business street  
24

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with no residents, and that's not how it should be, to be fair to residents.

COMMISSIONER JOYCE FOSTER: Thank you.  
Kelly Boston?

MS. KELLY BOSTON: Hello, my name is Kelly Boston. I'm a neighbor of the restaurant. I live about a block away at 1518½ Electric Avenue. I'm just here to request that the city fulfill its duty to protect the citizens by upholding its own laws. By the--this business' own admission, they're not in compliance. They haven't been for a while. They're flaunt--I feel like they're flaunting the law, and they make additional money because of that. I mean, every day that they have this additional seating, they're making--they have additional patrons, they make additional monies. And I understand they're a business, they're trying to stay open, but those additional patrons require additional services, additional parking, additional restrooms. I feel like when--as a citizen, when I forget and leave my car on the street and it's street cleaning day, I get fined

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1 a ticket. And this business has been breaking  
2 the rules and they're not being fined or there's  
3 no--nothing happens to them. And to me it's  
4 kind of like--I mean, I'm a mom, I mean, I'm  
5 with kids all the time, and with children, if  
6 there's not--if there's not a consequence, then  
7 there's no reason to change your actions. And  
8 there's no reason for this business to change  
9 their actions because there's no consequence for  
10 them to break the rules. I also feel like this  
11 isn't the only business doing this on Abbot  
12 Kinney, it's just the most obvious one. And I--  
13 as a last statement, I'd just like to say if the  
14 City is not going to force these businesses to  
15 follow the law, then I think that they need to  
16 provide the additional services that those  
17 businesses require, the additional parking, the  
18 public restrooms, that you find near the  
19 promenade and near Rodeo Drive. I mean, those  
20 are big city draws. Abbot Kinney is becoming a  
21 big city draw. It's not a neighborhood anymore.  
22 So that hurts us, the neighbor--you know, the  
23 neighborhood a lot, and so we just would request  
24

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1 that you please make them follow the law. Thank  
2 you.  
3

4 COMMISSIONER JOYCE FOSTER: Thank you.  
5 Against the appeal, we have a lot of speakers,  
6 so I'm going to call three at a time, and if you  
7 can stand on cue, that would be great, so we can  
8 move this along. Scott Mayers, Robert Schwan,  
9 and Barbara Schwan.

10 DR. SCOTT MAYERS: Hello, I'm Dr. Scott  
11 Mayers. I live at 745 Millwood Avenue in  
12 Venice. I'm in very--I don't know what the word  
13 adjacent means, but I'm as adjacent as you get.  
14 I've been a long-time resident of Venice, since  
15 1965, actually. I've seen a lot of, you know,  
16 Venice was and, in some ways, still is the Wild  
17 West. In terms of impact on us, and I  
18 personally, and from all the people that I know  
19 that live in proximity to the restaurant, find  
20 no negative impact on us, in terms of noise, in  
21 terms of parking. I mean, parking in the city  
22 is a zoo, and it's very difficult. I don't  
23 think that Gjelina either adds or takes away  
24 from that in a way, it's just--and Abbot Kinney

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1 has become a major destination now. With  
2 respect to Ms. Diaz, I think that her complaints  
3 are without merit, totally without merit,  
4 because none of the violations that the--that is  
5 being brought up here actually impact any of  
6 the--of us who live within a block of the  
7 restaurant. Thank you.

8  
9 COMMISSIONER JOYCE FOSTER: Thank you.

10 MR. ROBERT SCHWAN: Good evening, my name is  
11 Robert Schwan. I'm the managing partner of  
12 Gjelina, and I live at 1659 Crescent Place in  
13 Venice. I've lived and worked in the restaurant  
14 industry, specifically in Venice, for 35 years.  
15 And one thing I did today is--or I've done is I  
16 went and got a--I sent around a petition to my  
17 neighbors and went around, and I have over 30  
18 signatures, a lot of them in very close  
19 proximity to the restaurant that, you know, want  
20 you to approve our seating as exists, so I just  
21 wanted to offer that up. You know, all these  
22 people couldn't be here, but I just wanted to--

23 COMMISSIONER JOYCE FOSTER: Thank you. You  
24 can give it to the executive assistant.



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2 MR. ROBERT SCHWAN: Okay, you can see that.  
3 And I just want to say, we're a restaurant,  
4 we're a family restaurant owned by Venice  
5 residents, and we serve beer and wine only, only  
6 with dinner. That's what we're doing. That's  
7 what this is about. Family-run business by  
8 Venice residents, serving dinner with beer and  
9 wine. That's what we're doing there. And I  
10 manage the restaurant. I'm there almost every  
11 day, every night of my life. I've never had the  
12 police come and complain to me about noise,  
13 unless a certain individual sent them  
14 specifically to do that. That's not what's  
15 happening there. That's not the case. We--you  
16 know, you're not looking at a list of violations  
17 of people saying, oh, there's drunken people or  
18 there's noise, or there's--it's just not what's  
19 going on at Gjelina. It's a family dining  
20 experience. At any given time you go in  
21 Gjelina, I guarantee you at least half the  
22 people in there are locals. I also guarantee  
23 you that at least half my staff live and work in  
24 Venice, so that's what I wanted to share with

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you, and I thank you for your time.

COMMISSIONER JOYCE FOSTER: Thank you.

MS. BARBARA SCHWAN: Hi, I'm Barbara Schwan, 1659 Crescent Place. I just want to say that we all know that Gjelina is not solely responsible for the parking problem in Venice. I've lived in Venice for 30 years, and it's always been a problem. I think what needs to be taken into account here is that this business has been more successful than they imagined, and not only for itself, but it has had such a positive effect on all of the other businesses in the street. I mean, if people can't get a seat in Gjelina, they'll walk down to other restaurants on the street, they'll, you know, go to other businesses on the street. It's been a very healthy business for the street, and I think that we should be careful not to kick a gift horse in the mouth. As the person from the Mayor's office said, the revenue that they bring in through sales tax and property tax and income is very important to a city that's in financially very difficult times, and I think

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2 that should be very--you know, really  
3 considered. And I think the other point is that  
4 all the people that are in top management at  
5 Gjelina live in Venice. They live there, they  
6 work there, and they serve on committees in the  
7 community that are trying to solve the parking  
8 problem, because it is a problem and it needs to  
9 be solved. But it's not one business, it's a  
10 community problem. And everybody that's working  
11 there is working with the community to try to  
12 figure out a solution. Thanks.

13 COMMISSIONER JOYCE FOSTER: Thank you. Sean  
14 Gayle [phonetic], Mark Carpathian, and Sam  
15 Marshall.

16 MR. SEAN GAYLE: Hi, Sean Gayle, 742  
17 California Avenue in Venice. This is a business  
18 that's essentially being brought under the  
19 microscope because of its success. And they've  
20 created a thriving business in a down economy.  
21 They are--they've participated in the complete  
22 vitalization of Abbot Kinney as a restaurant  
23 street and as a commercial street. And if we're  
24 talking about what is good for the community as

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1 a whole, I would ask the appellants if they're  
2 glad that their properties are retaining value  
3 well above the national average because of the  
4 popularity of Abbot Kinney, and because of the  
5 popularity of Venice. This is the kind of thing  
6 that cities want to create in order to keep the  
7 city thriving. And I would just say that it's  
8 also good for the overall health of the  
9 community. We talk--people were talking about  
10 the danger that exists because of the  
11 displacement of parking. Gjelina is a  
12 participant in the growth of a much safer  
13 overall community, because Venice is not what it  
14 was when I first moved there 13 years ago.  
15 Venice is no longer gang land violence. Venice  
16 has become a thriving commercial entity, and we  
17 want that to continue. It is changing, and that  
18 is going to change some of the dynamics of the  
19 community, and we're all having to live with  
20 that. We're all having to live that it isn't  
21 the just outland place that it was, and that's  
22 for the better. It does require some  
23 adjustment, but it is for the best, ultimately.  
24

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COMMISSIONER JOYCE FOSTER: Thank you.

MR. MARK CARPATHIAN: Hi, my name is Mark Carpathian. I live at 812 Vernon Avenue, Venice. I've lived in and out of Venice for over 15 years now, and I agree, in terms of danger, I wouldn't walk seven blocks to what-- where Gjelina currently is 15 years ago; wouldn't even walk seven blocks. You couldn't get a taxi at night 15 years ago to the house. It was definitely a crazy place. It's changed a lot because of places like Venice, and I won't go and repeat everything that was said, but let me paint a quick picture about--I mean, Venice, in terms of community, I've never been--I'm sorry, Gjelina. Going into a place, I've never seen such a wonderful space of community and great energy, and one comment I want to make is my uncle owns a lot of restaurants in Michigan. I have never been in a restaurant where I see wait staff, people at the front door, I don't even know all the particular names, the maitre d's, they come in, wait staff comes in with family on Saturdays, and they come in during the

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1 week and they eat dinner there. And this is how  
2 welcoming it is. 'Cause I hear people using the  
3 word danger, floating rules, and profits, and  
4 like it's this bad oner. And if it was so bad,  
5 believe me, the people who were working there  
6 would not come back after shift to have dinner  
7 with their family, their mother, or they sure  
8 wouldn't be bringing their kids up as well. So  
9 I just definitely support Gjelina and giving  
10 them the opportunity, 'cause that's the spirit  
11 of the law here, I mean, giving them the  
12 opportunity to come into compliance, and maybe  
13 with a couple of things that they might not be  
14 in. Thank you.

16 COMMISSIONER JOYCE FOSTER: Thank you.

17 MR. SAM MARSHALL: Hello, my name is Sam  
18 Marshall and I am here today speaking in support  
19 of Gjelina. I am a direct neighbor of Gjelina,  
20 as my offices are located just next door at 1425  
21 Abbot Kinney. In many ways I do feel it is  
22 regrettable that we are all here today. Gjelina  
23 has been nothing but a grass roots success  
24 story. We are all aware of the unchained Venice

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1 initiative which seeks to prohibit the  
2 establishment of chain restaurants and stores in  
3 Venice. As a supporter of this initiative, a  
4 local resident, Fran Camaj, purchased the  
5 building at Millwood and Abbot Kinney, and spent  
6 the next five years permitting and constructing  
7 Gjelina. Five years is a long time, and what  
8 was created in that five years is completely  
9 unique. It is a neighborhood owned and operated  
10 farmers market fresh restaurant that serves the  
11 community and employs over 100 people in doing  
12 so. To Mr. Armbruster's point, one of the  
13 reasons it took five years is because the owner  
14 had to completely change his business model to  
15 move from a bar to a restaurant at the request  
16 of the zoning administrator. He did this to  
17 move within the wishes of both not only the  
18 zoning administrator, but also the community,  
19 and it became successful. Just so that we do  
20 not lose perspective today, what we are talking  
21 about is a restaurant created out of the  
22 community's concerns and wishes. What we are  
23 talking about is a place that serves dinner,  
24

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1 lunch, and on the weekends, breakfast. And I've  
2 read both the appeal and the ZA report, and I  
3 should take this opportunity to say that I'm  
4 particularly impressed with the efforts and  
5 diligence of Mr. Tovar. The fact that a city  
6 employee would visit Gjelina at 10:30 on a  
7 Saturday night shows the amount of dedication  
8 and service to this issue. And after spending  
9 ample time both inside, outside, and around  
10 Gjelina, Mr. Tovar came to a conclusion that  
11 negates the entirety of the insertions--of the  
12 assertions of the appeal. Assertions in this  
13 case is the operative word, as I am still  
14 confused about what exactly is being appealed.  
15 I suppose the thing could be, if you throw the  
16 kitchen sink at an issue, something may stick.  
17 In reading the appeal, however, it is very clear  
18 that the goal in this case is to use the  
19 commission to close down Gjelina, or reduce it  
20 in a way that it is forced to close. How awful.  
21 What a tragedy it is that we cannot support our  
22 neighbors in not only providing jobs at such a  
23 critical time, but also making such a unique,  
24

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wonderful contribution to our community. I hope this Commission finds it to support my neighbor for a job well done. I hope this Commission finds to support 100+ jobs and dozen plus farmers that make this place possible. I hope this Commission denies the appeal and sustains the Zoning Administrator's findings. Thank you.

COMMISSIONER JOYCE FOSTER: Thank you.

Peter Quis, Lise Matthews, and Angelina Bernat [phonetic].

MR. PETER QUIS: Hello, my name is Peter Quis. I'm a 17-year resident of Venice. I'm a local business owner. Just real quickly, I am against the appeal and agree with much of what has been said. I just want to point out that I think Mr. Tovar has a very good grasp of the issues and one thing that stood out to me was the notion that there's conflicting plans; there may have been some bureaucratic accidents that seating is driven by service floor area in Venice and--which is in turn driven by parking, and that is something that results in a different number than the COP has on it in terms

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2 of seats. And I think that seems, at least from  
3 what I've heard, is potentially just a  
4 bureaucratic accident, because it's derived from  
5 plans that were supposed to be changed. So I  
6 think we should look to Mr. Tovar for some  
7 guidance on this, since a lot of issues seem  
8 fairly confusing. Thank you.

9 COMMISSIONER JOYCE FOSTER: Thank you.

10 MS. LISE MATTHEWS: Oops, I'm too short.  
11 Good evening, my name is Lise Matthews. I am an  
12 architect. I am a resident of Venice. My  
13 address is 1510 Abbot Kinney Boulevard. I am  
14 less than half a block from Gjelina. I have  
15 been in Venice since 1976. I can remember when  
16 Ribekauf's [phonetic] niece was killed outside  
17 the restaurant Shayhelen [phonetic] in the '70s.  
18 Venice has changed. I feel much safer in Venice  
19 with activity on the street, that there are  
20 people there walking around, that I don't have  
21 to feel nervous if I walk to my house or my car  
22 or my studio, because there is activity now and  
23 I think that that is a benefit. I see Gjelina  
24 as having been a magnet to bring people to

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Venice, to explain Venice to the outer world, so that now the street had become alive in a way that it was not in the past. I agree with the things that people have said on the positive side. I would like to bring attention to the fact that there is a very large, tall wall around the rear patio. I have never had any problem with noise whatsoever. I have been past Gjelina day and night at all hours, 'cause I come and go all hours, and I fully am against the appeal. Thank you.

COMMISSIONER JOYCE FOSTER: Thank you.

MS. ANGELINA BERNAT: Hello, thanks for your time today. I'm here on behalf of my entire family. We've been residents of the Ocean Park/Venice area for quite some time, and patrons of Gjelina since it opened. Now, obviously, we keep going back because the food is incredible. But I don't think we would be there, frankly, every day, collectively, amongst all of us, if it weren't for this really wonderful sense of purpose and community that this restaurant--that surrounds this restaurant.

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1 The proprietors have made a clear effort to  
2 contribute positively to the world outside their  
3 walls. Whether that's by hiring members from  
4 the neighborhood, or supporting sustainable and  
5 local farmers, this is all a boon to our  
6 community. And as somebody who worked on Abbot  
7 Kinney before Gjelina opened, I can assure you  
8 there have always been parking problems. They  
9 are not--they are not--the genesis is not  
10 Gjelina, I can assure you. I want to echo the  
11 points everybody else has made. The  
12 continuation of what I had to say would be a  
13 repetition, but I want to say that this is the  
14 sort of business that local government,  
15 especially one as forward thinking as Los  
16 Angeles, should really reach out and support.  
17 Curtailing efforts of a business like this is  
18 not what a local government should do, and I  
19 have to make the point that the notion that Fran  
20 and Travis and Robert are some sort of nefarious  
21 vampiric folk coming in to suck life out of  
22 Venice is one of the most absurd notions I've  
23 ever heard. It's actually quite laughable.  
24

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They're good men who want to do right by their community, and I'm here in support of them.

Thank you so much for your time.

COMMISSIONER JOYCE FOSTER: Thank you. Cory Tehara [phonetic] and Kenneth--and I'm sorry, I cannot read your last name.

MR. KENNETH HEPBURN: Hepburn.

COMMISSIONER JOYCE FOSTER: Hepburn, oh.

MS. CORY TEHARA: Hi, how are you? I'm Cory. I live at 14126 Marquesas Way in Marina Del Rey. And basically I'm just standing before you today to address maybe in particular what we're hearing a lot that, Ms. Foster, I know it came up that seating may have much more to do with sort of extraneous issues with regard to how they may affect parking. I want to point out a few things that we've been doing with regard to parking. One is that we--not we, I will say Fran, Mr. Camaj, who owns Gjelina, he worked with DOT in order to create nine parking spaces on a street that was previously red striped for no parking, and worked for DOT in a process that is not at all simple in order to

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1 get that street, which is within one block of  
2 the restaurant, in fact, half a block, to have  
3 nine parking spaces put in where no other  
4 parking used to exist. That's one. Worked also  
5 with the businesses in conjunction--pardon me.  
6 Within half a block, we count eight bike racks  
7 that exist within the area of the restaurant at  
8 the corner of Millwood and Abbot Kinney. And  
9 then third, something that we're very proud of,  
10 we worked with Metro in order to implement a  
11 commuter program. 40% of our staff now have bus  
12 passes that are provided by Fran Camaj, under  
13 his dime, in order to allow those employees to  
14 take the bus to work, which is greatly  
15 appreciated as an employee benefit. And then,  
16 when we conducted our own personal survey of our  
17 staff, another 35% declined a bus option because  
18 they ride their skateboards, they ride their  
19 bikes, and they walk to work. So when we talk  
20 about the impact of 105 employees, I think  
21 there's a couple of things to take note of. One  
22 is the 105 employees never show up at work at  
23 one time. We're talking about multiple shifts

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1 throughout the day, throughout the week, and  
2 we're also talking about the fact that over  
3 half, in fact, close to 70% of those employees,  
4 take an alternate form of transportation into  
5 the neighborhood. And for Mr. Ryvek, if you  
6 have any questions about how to get those bus  
7 programs implemented for other businesses in the  
8 area, I'd be so pleased to offer you the contact  
9 information at Metro.  
10

11 COMMISSIONER JOYCE FOSTER: Thank you.

12 MR. KENNETH HEPBURN: My name is Kenneth  
13 Hepburn. I live on 654 San Juan Avenue. I  
14 moved to Venice about 12 years ago, when it was  
15 pretty darn sketchy, but I saw the--what I  
16 thought Venice could bloom into becoming, and  
17 that it has. And it's done so in great--due in  
18 great part to people like Fran, who is a local  
19 business person who exposed himself to enormous  
20 personal risk to put together a business like  
21 this. And as a person who also had a business  
22 that I launched in Venice years ago, and which  
23 was a victim of the financial crisis of 2008, I  
24 would like to ask the applicant to propose what

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1 she would like to say to the roughly 40 people  
2 that I would imagine would lose their jobs due  
3 to what she's proposing. And I also would say  
4 that there needs to be creative solutions for  
5 parking here in Venice. Because, I tell you  
6 what, if you don't come up with it and encourage  
7 people like Fran Camaj to build the kind of  
8 businesses that he has, there's a very simple  
9 solution, and it'll be done for you. And it's  
10 the real estate developer that'll come in and  
11 build single family residences on Abbot Kinney  
12 Boulevard that don't have to comply with  
13 anything, other than set-back and height  
14 restrictions. And they put in a two- or four-  
15 car parking garage, whatever they need, and  
16 Abbot Kinney is over. It's done. It is no  
17 longer the thriving community that it is, that  
18 we all cherish. It becomes walls on Abbot  
19 Kinney. And we already saw this a few years ago  
20 during the building boom. And as the economy  
21 comes back around, that'll happen again. And  
22 you won't have to worry about parking; you won't  
23 have to have these issues. We won't have to

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1 have hearings like this, because people like  
2 Fran Camaj won't even have a chance, because  
3 that parking issue will be taken care of for  
4 you. And there is a huge amount of acreage  
5 right over on Westminster. I don't understand  
6 why the City isn't looking at that as a resource  
7 to solve this problem and to help encourage  
8 Venice to remain the vibrant community that it  
9 is, that we all love. Thank you very much.

11 COMMISSIONER JOYCE FOSTER: Thank you.

12 General comments, Michael Rosen and Jory  
13 Tremblay.

14 MR. MICHAEL ROSEN: Thank you for hearing  
15 me. My name is Michael Rosen. I live at 554  
16 Westminster Avenue in Venice. I also have a  
17 retail store on Abbot Kinney Boulevard. Yes,  
18 Venice has changed. It is absolutely not the  
19 same place that it was 15 years ago when I came  
20 here, but I can only say that I know Fran Camaj,  
21 long before he opened or there even was a  
22 Gjelina. And I can tell you, as a human being  
23 and somebody as a family person, the amount of  
24 time, effort and thought process he put into the

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1 formation of his business and how much he cared  
2 about the community and continues to care about  
3 the community, basically 365 days a year. He is  
4 not somebody that is in business strictly for  
5 profit. Like anybody else that starts a  
6 business, ultimately that's hopefully what  
7 you're going to attain, which he has in very  
8 tough times. But I can tell you, as a friend,  
9 as a business supporter, as, quite frankly,  
10 somebody that has absolutely helped my business  
11 and many others on Abbot Kinney, Gjelina is a  
12 major asset, not just for the people that they  
13 employ, not just for the food growers in the  
14 surrounding communities that he purchases from,  
15 but also just as a human situation, in regard to  
16 transportation efforts that you have heard in  
17 the past, and he will now, and continue  
18 throughout the process, to do whatever he can to  
19 maintain. I am sure that if there are  
20 compliance issues, Fran Camaj will do whatever  
21 he has to do for both the Venice community as  
22 well as the City of Los Angeles. Thank you.

24 COMMISSIONER JOYCE FOSTER: Thank you.

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MR. JORY TREMBLAY: Good evening. It was the afternoon when we started.

COMMISSIONER JOYCE FOSTER: That's right.

MR. JORY TREMBLAY: My name is Jory Tremblay. I live at 825 Marco Place. I'm the case person for the Land Use Planning Committee, and I attended three of the public hearings on this. And due to the Passover holiday last week, the VNC did not hear this, so we can't make an official comment on the appeal, but I did want to read what the VNC's position was prior to the appeal being filed, because I think it's relevant to a decision you're trying to make. The Land Use Planning Committee found that the motion and all the conditions approved be enforced except for #9, which is to simply clarify that it's amplified music, not live music, and that #22 be deleted. Further, we recommend that the CUB not be revoked as long as the applicant is compliant with all conditions of approval, except as noted above. That was the Lupac motion. The VNC motion was the Board amended this motion by a vote of 18:0:2, and

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1 added that the Board is requesting that the ZA  
2 keep the file open to give Gjelina eight months  
3 to come into compliance before any action is  
4 taken to remove its license. And so while we  
5 agree with the applicant that the business owner  
6 needs to come into compliance, we thought that  
7 it was reasonable to give him some time to do  
8 so, as opposed to shutting down the business or  
9 penalizing people who are working there who are  
10 affected by this indirectly. The second thing  
11 that I want to make a mention of is that there  
12 was a mention of the nine parking spaces by one  
13 of the people who previously spoke, and there  
14 has been some debate about that. Both Robert  
15 Aaronson and I verified that those parking  
16 spaces are--were--there was a red line removed  
17 on Electric solely do to the efforts of Fran.  
18 And so there are some people debating on whether  
19 that was done by the City or not, and we  
20 independently verified that. I just wanted to  
21 clarify that for the record. I think he's done  
22 that as a part of being a good member of the  
23 community, but I thought it was important to  
24

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1  
2 make that point.

3 COMMISSIONER JOYCE FOSTER: Thank you.  
4 Council office, Whitney Blumenfeld.

5 MS. WHITNEY BLUMENFELD: Hi, Whitney  
6 Blumenfeld for councilmember Bill Rosendahl's  
7 office. As you've heard, there are many  
8 supporters, and there are people here who have  
9 concerns as well. The council office has  
10 received, and the councilmember received  
11 numerous e-mails, the petition, seen support for  
12 this project. The neighborhood council and  
13 their position does seem to reach a nice place  
14 of making sure that the restaurant meets its  
15 conditions. How you want to do that, what  
16 timeframe, how you want to relate that to the  
17 new CUB up for--or I guess renewal or redoing  
18 the CUB, however you want to state that, in a  
19 year. However you want to combine those,  
20 obviously, is your decision. There is a lot of  
21 support for this restaurant and in the  
22 community, and it would be best to figure out  
23 how to make it work, how to verify that the  
24 applicant is meeting its conditions, what are

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the steps, what will be done, and how and what the plan is to meet conditions to satisfy the concerns. And perhaps not every concern can be satisfied, because grandfathered parking, as we know, is a huge problem. Especially so in this area. But I believe that's enough. Thank you.

COMMISSIONER JOYCE FOSTER: Thank you. Any questions?

[END 04ZA06-5028-Part 3]

[START 04ZA06-5028\_PART 4]

COMMISSIONER GLENDA MARTINEZ: I was going to say Ms. Diaz has two minute rebuttal. Yes.

MR. DONOVAN: Excuse me, Madam President.

COMMISSIONER GLENDA MARTINEZ: You had a question?

MR. DONOVAN: May I ask a question of staff so that they can rebut that if they have an opportunity? I was having trouble understanding. Things have come clearer to me a little bit I hope. But I am understanding that in October 2006 planning approved a change of use and then six months later, May of 2007, in the application for a CUB certain conditions

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1 were placed on the restaurant including the  
2 seating and the patio and all that. In the May  
3 2007 conditions at least one of those conditions  
4 was that forty four indoor seats and sixteen  
5 outdoor, even though the seating was not  
6 mentioned in the earlier decision for the change  
7 of use. So we hear now that they've got a  
8 hundred seats in the restaurant. So looking at  
9 the May 2007 imposed conditions, this restaurant  
10 is in violation of those conditions. Is that  
11 correct?  
12

13 MALE VOICE: Of the May 2007 action, yes.

14 MR. DONOVAN: Yes. And there has been no  
15 application by the restaurant since 2007 to  
16 increase the seating for the CUB. Is that  
17 correct?

18 MALE VOICE: That's correct.

19 MR. DONOVAN: And they could have applied  
20 for the increased seating?

21 MALE VOICE: Yes, they could have.

22 MR. DONOVAN: Okay.

23 MALE VOICE: And the appropriate procedure  
24 to do that would have been to file for a plan

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1 approval, which is what this is. They could  
2 have piggy backed that on this request, which  
3 they attempted to but we did not grant that  
4 request.  
5

6 MR. DONOVAN: Okay. That's all I needed to  
7 ask.

8 COMMISSIONER GLENDA MARTINEZ: Ms. Diaz?

9 MS. DIAZ: I just want to reiterate that  
10 Section 12.24W which I provided you with a copy,  
11 you cannot increase or make any changes to a  
12 conditional use permit, more than 20%. That's--  
13 anything over 20% is a brand new conditional use  
14 permit has to be applied for. Less than 20% has  
15 to be a plan approval. It is in the code. You  
16 have the code section. I provided that for you.  
17 A couple of notes. When you go to Jalina  
18 [phonetic] and they're very busy, you can get  
19 drinks without food while you're waiting. So  
20 just so you know. People are served alcohol  
21 without food while they're waiting to be seated.  
22 Number one. I've done it. Number two, it's  
23 illegal to change conditions of approval as I  
24 mentioned, because it is in the code, more than



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20%. I already reiterated that. The certificate of occupancy that they have for 200 people which is a fire department that has nothing to do--and you know this. I mean I don't have to tell you this, but I just want to reiterate it, that that cannot be used to increase the seating. You--I also provided you a copy of the DIR from 2006, which describes the service floor area, which is the only area where they can seat people at 720 square feet, which does not include the bar. So if they wanted to include the bar, that is increased service floor area. They cannot possibly seat 100 people in 720 square feet of restaurant. So I don't know where these numbers are, but the service floor area that they were approved for, for the parking that they have, which is fourteen for the restaurant. They have twenty six spaces that were grandfathered in, six beach impact, five for the retail and fourteen for the restaurant. The fourteen is based on 720 square feet of floor area. That is in the plan that I gave you. And I think that's it. Thank you. I

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appreciate your time today.

COMMISSIONER GLENDA MARTINEZ: Thank you.

MS. DIAZ: Thank you.

COMMISSIONER GLENDA MARTINEZ: I'm sorry. You already had your chance. Do you have a question?

MR. AMBRUSTER: I had a question for the staff.

COMMISSIONER GLENDA MARTINEZ: Mark?

MR. AMBRUSTER: The applicant had an opportunity to submit a plan of approval that changes everything and you denied that?

MR. TOVAR: Not exactly.

MR. AMBRUSTER: Explain that to me a little bit if you don't mind.

MR. TOVAR: I'm trying--I'm going to ignore the 2006 decision for one second.

MR. AMBRUSTER: Yeah, okay.

MR. TOVAR: Okay. Yes. In 2007 he was approved. There was a limit imposed on the number of seats, forty four indoor, sixteen outdoor. A plan approval can be used in two different ways.

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MR. AMBRUSTER: Okay.

MR. TOVAR: If an applicant received an approval of entitlement and he wishes to modify that entitlement then the appropriate process would be to file for a plan approval and they can request a modification and Ms. Diaz is correct, up to 20% deviation, whether it's floor area, intensity of use. I'm not going to get into the specifics of that, but yes, you can increase the entitlement by 20%. If it exceeds that then it requires a brand new application. This plan approval was filed. It wasn't initiated--it was initiated by the applicant obviously but it was in compliance to a condition that was required as a condition of the grant. As part of this application, the applicant could request a deviation to increase or modify the grant. And it's true that at the time they filed the application they didn't request that. However, staff also has the authority to modify the grant and probably has the latitude to go within 20%, you know, whether it's asked for or not and I can't speak to the

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fact of whether or not it was included in the notice based on the code where the staff still has that latitude. I believe that staff does have the latitude to do that as long as it doesn't exceed 20%. So subsequent to the hearing the applicant did--like I said, there was no request to modify the seating or anything else when the application was filed. It was simply filed to review compliance of the conditions. Subsequent to the hearing when the case was under advisement, the applicant did request that and by the way, the applicant's representative that's here today, he was not--I don't believe he was representing the applicant at the time of the hearing. So the applicant represented himself at the hearing and subsequent to that, now the applicant's representative did request that and we lifted it. We basically did nothing with that request because the fact that you have a related case, because this happens to be within the specific plan area and the specific plan area establishes its own requirements to evaluate a change of use

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1 that differ from what we would normally do under  
2 the code, we would look at a change of use and  
3 we would build in a safety and basically look at  
4 the flow area typically to determine whether or  
5 not there was a change in the type of use, the  
6 intensity of the use, the occupancy or whatever  
7 the case is and if it's the same type of use,  
8 whether there's a change in the floor area that  
9 would trigger additional parking and they come  
10 up with credits to figure out whether or not the  
11 site is--and in this case there is only one  
12 parking space on the entire site. It's an old  
13 nonconforming building. So you go back and look  
14 at, you know, whatever C of O there is and you  
15 compare it to what they're proposing and you  
16 figure out credits for parking and what have  
17 you. So again, because this was previously used  
18 as retail--now, under the specific plan, I want  
19 to take a step back. I'm not sure to what  
20 extent, I'm not--I've never implemented the  
21 specific plans, I'm not sure to what extent you  
22 go back and you look at the certificate of  
23 occupancy to compare it to what was previously--  
24

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1 what was approved, which the use could have  
2 changed ten times but nobody ever filed for a  
3 change of use with the certificate of occupancy  
4 or whether you just go on whatever the last  
5 tenant was, whether they have a certificate of  
6 occupancy or not and then you kind of go back  
7 and look at the proposed use and you look at the  
8 floor area, but now you're looking at service  
9 floor area, which I'm going to read to you, the  
10 definition of service floor area under the  
11 specific plan. It's right here. I was trying  
12 to avoid getting technical to avoid confusion,  
13 but here is the definition of a change in  
14 intensity of use which then triggers a project  
15 permit compliance regardless of whether another-  
16 -it may not be considered a change of use but  
17 under the specific plan it could. Change in  
18 intensity of use is defined as a change of  
19 intensity of use includes but is not limited to  
20 any addition, expansion or change in use on a  
21 site that involves A, a change in the total  
22 number of dwelling units; or B, a change in the  
23 amount of service floor capital to a commercial  
24

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1 or industrial use. I won't read the rest of it  
2 because--well, D is or a change in the number of  
3 provided or required parking spaces as  
4 calculated in Section 12 D of E in the specific  
5 plan. Then you go to the definition of service  
6 floor and that is all areas where the customer  
7 can be served, except the restroom but including  
8 the indoor and outdoor dining area, bar and  
9 waiting room and tavern. A patio normally  
10 wouldn't be considered floor area and so you  
11 wouldn't count that toward parking. Under the -  
12 - specific plan you would include service floor  
13 area but you would exclude the bathrooms and  
14 whatever is not being used for service floor  
15 area and if there is dining in the patio then  
16 you include the amount of service floor. Now  
17 whether it's the entire patio or half or a  
18 quarter of the patio, you know, so I suspect  
19 that somewhere along the line when they tried to  
20 establish this use they met with the community  
21 planning people and they figured out, you know,  
22 what was the maximum allowable service floor  
23 area that then would not trigger any additional  
24

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1 parking because that's what the determination  
2 was in 2006, that this was a change of use but  
3 no additional parking was going to be required  
4 because based on the proposed floor plan and  
5 layout and based on the service area, floor area  
6 that was proposed there would be no required  
7 parking. Okay. Now, whatever that service  
8 floor area that was approved, it could be a  
9 combined total of about 810 square feet or so,  
10 how many seats that translates to I can't tell  
11 you, but there is probably a seating arrangement  
12 that corresponds to that. So that's what I'm  
13 saying, that's what should be driving the  
14 seating area, not whatever the zoning  
15 administrator indicated. In theory the forty  
16 four seats and the sixteen seats, sixty, could  
17 exceed or be less than whatever the specific  
18 plan allows. Do you want to be more restrictive  
19 or more permissive than the Venice specific plan  
20 [phonetic]? I don't know. But from our  
21 perspective the best thing to do is allow the  
22 specific plan to govern and if the contents are  
23 not in compliance to those that were approved in  
24

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2006 under the specific plan, then that needs to be remedied, but again I don't have the jurisdiction and the ZA's office, as I mentioned earlier, to remedy that, but if we left the seating capacity, if we put in the maximum seating capacity that could theoretically conflict with whatever they're entitled to under the specific plan. Whether they want to use it as it was originally - - or whether they want to come back and seek an increase, at that time then staff from the plan implementation section would have to look at it and say no, this is going to trigger additional parking. So you can't do this. If you want to do this you have to file for a specific plan exception as well. So depending on what the applicant chooses to do you may see this again in a year, not just the conditional use because it's going to expire and they're going to have to come back and file for a new entitlement for - - for the alcohol. If they want to modify the current layout then they're going to have to go back and file a modification or a brand new application to the

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1 specific plan if indeed it does require a  
2 specific plan exception, unless they can provide  
3 the parking onsite, which they can't because  
4 there is no parking onsite. And that's it. So  
5 you might see both of these entitlements  
6 sometime in the future and I'm sure that  
7 whatever the action is of the zoning  
8 administrator it'll be appealed and it will come  
9 before you again. So again, we're just trying  
10 to - -. We're not trying to circumvent anything  
11 by doing that, but you have the option certainly  
12 to go back on this and again and just to keep in  
13 mind, our first option really isn't to close  
14 down a business and revoke it. You have to go  
15 through due process. We have to impose  
16 corrective conditions if they're violating any  
17 conditions and then we set it for a subsequent  
18 plan approval hearing. If this entitlement on  
19 the alcohol had no expiration date then we  
20 probably would set the matter for hearing within  
21 a year or six months, whatever makes sense and  
22 have them come back to review compliance for the  
23 conditions. But because it's going to expire  
24

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1 anyway, they're going to have to file a brand  
2 new application and at that time whoever the  
3 decision maker is at the zoning administrator's  
4 level could go back and they're going to hear  
5 the testimony and take into consideration the  
6 extent to which they were--have complied with  
7 these revised conditions that are part of this  
8 plan approval now and take that into  
9 consideration in evaluating that request.  
10 Separately the whole issue about the floor area  
11 and the service floor area, depending on what  
12 the applicant opts to do, they might just decide  
13 to say hey, you know what, we're just going to  
14 use it consistent with what was approved under  
15 the project permit and they'll never have to  
16 come back on that issue again because that  
17 entitlement does not expire. But if they want  
18 to expand beyond what they were approved for  
19 under the project permit, then they do need to  
20 also file a separate application for that as  
21 well.  
22

23 MS. DIAZ: I have a question. What was  
24 approved under the project permit?

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MR. TOVAR: All I can tell you is that they were approved for a total of--if I'm not mistaken, about 810 square feet. I think it was 120 square feet of service floor area in the patio and if you look at the plans that shows two tables, eight seats. So if you want to say sixteen seats in the patio, you're going more than what they were showing on the plans under the project permit. On the inside, they had a bar. So they were showing forty four seats and I think that included dining plus the seats at the bar.

MR. RAUSCH: Charlie Rausch. The original project permit approved under the plans called for 600 square feet of restaurant service floor area and 120 square feet in the outdoor service floor area. I might also add the specific plan does not require parking according to number of seats in the restaurant. It is done by the service floor area square footage.

MS. FOSTER: Commissioner Foster, my question is should it be that--

COMMISSIONER GLENDA MARTINEZ: I'm sorry,

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Commissioner Foster--

MS. FOSTER: Oh.

COMMISSIONER GLENDA MARTINEZ: I want to be sure I give Mr. Armbruster a chance for rebuttal before we get into a discussion.

MS. FOSTER: Yes. Okay. Good idea.

COMMISSIONER GLENDA MARTINEZ: Go ahead.

MR. ARMBRUSTER: Thank you. Mark Armbruster again. First, I hope that from hearing the speakers here, and I know this isn't right on point to what the issues you may be looking at, but that you understand and appreciate that this is really a fine establishment. It's a fine restaurant. They're not out there flagrantly and intentionally violating conditions of approval. They're trying to do a great job and trying to be a successful restaurant that as you can see lots of people in the Venice community really like. I hope you take that into account. I also, just to avoid confusion on this issue of what the zoning administrator can and cannot do, if you look at Los Angeles municipal code Section 1224.0 provides that the ZA in a plan

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1 approval case may quote, impose conditions on  
2 the same basis as provided for in this section  
3 for the establishment of a new conditional uses,  
4 period, close quote. So the 20% rule sort of  
5 has a different application but the municipal  
6 code fully allows the zoning administrator to  
7 craft and provide conditions as he or she sees  
8 fit. Finally, I'd like to say that we, the  
9 direction that Mr. Tovar was just going in, in  
10 his explanation to you and to Mr. Rausch with  
11 regard to the seating and service floor area,  
12 it's obviously fairly confusing, and I think  
13 that the restaurant has been operating based  
14 upon the service floor area which is determined  
15 by the twenty six grandfathered parking spaces  
16 which are undisputed that that exists; and so  
17 because of the twenty six grandfathered parking  
18 spaces you get fifty feet of service floor area  
19 for every space. That gives you 1300 square  
20 feet of service area. So that's the way he's  
21 been operating. I would suggest and I would ask  
22 that--and especially in light of look what he's  
23 done that other people in the Venice community  
24

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1 haven't done, other business owners haven't  
2 done, he's taken it upon himself to figure out a  
3 way to get nine other parking spaces open there.  
4 I would suggest that you take Mr. Tovar's  
5 suggestion and his determination and let us go  
6 back to the director of planning, and I'm sure  
7 it'll be the ZA who will review this, with the  
8 revised plans that show compliance with the  
9 floor area. They will also look at the parking  
10 requirements; and if, for example, they  
11 determine that additional parking might be  
12 required, well, then he may have to acquire  
13 additional parking and I think he can do that.  
14 So I would suggest and ask you to consider going  
15 with the zoning administrator's determination  
16 which may lead the applicant to where he is now  
17 or it may not; but it calls for a process to  
18 clarify all this confusion to submit the revised  
19 plans, make sure everything is in compliance and  
20 then comply.

22 COMMISSIONER GLENDA MARTINEZ: Thank you.

23 MR. ARMBRUSTER: That's what I would  
24 suggest.

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COMMISSIONER GLENDA MARTINEZ: Thank you.

MR. ARMBRUSTER: Thank you.

COMMISSIONER GLENDA MARTINEZ: Public hearing is closed now. I have a question for staff. If we were to deny the appeal then there would be no limitation on seating in the restaurant and if they decided not to apply for a change with regards to the specific plan grant, then there would be no hearing or no opportunity for the community to express their concerns about the increased seating area. Is that right? I'm just trying to understand the process.

MR. TOVAR: That's generally correct. That's generally correct. If you denied the appeal and you didn't modify the conditions of the zoning administrator then under the zoning administrator's action there would be no limit on the seating capacity and the seating capacity would then be governed by the related project permit that was approved and the plans that were approved under the project permit; and go ahead--there is a set of plans that were--a separate



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1 set of plans. The problem is that those plans,  
2 as I mentioned earlier, include a bar and those  
3 plans were never revised to be consistent with  
4 the zoning administrator's action; but at the  
5 end of the day, since--and I think someone  
6 started to mention this earlier, if you had a  
7 bar and that was part of the service floor area  
8 and that was denied by the zoning administrator  
9 so now what was previously a bar became all  
10 dining area does it come out to the same amount  
11 of seating capacity? Probably not. Is it more  
12 or is it less? I couldn't tell you at this  
13 point but I really think this requires review by  
14 the plan implementation section and because of  
15 the fact that from day one, as I mentioned,  
16 there was a disconnect between both of the  
17 approved plans because one has a bar and one  
18 doesn't, the applicant--it would behoove the  
19 applicant to go back and submit to the plan  
20 implementation section for a modification or a  
21 new entitlement whatever the case may be. Now,  
22 that said, to answer your question, if he  
23 doesn't do it we can't compel him but in a year  
24

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1 or so he's going to have an expired entitlement  
2 on the conditional use and that's something that  
3 will be looked at again at that time and should  
4 be reconciled, but that still needs to be  
5 reconciled. The fact that a set of plans was  
6 approved with the maximum amount of service  
7 floor area and I think it's 720 square feet,  
8 whether that's with a bar, without a bar,  
9 whatever the case is, that needs to go back and  
10 be addressed still.

11  
12 MS. FOSTER: Commissioner Foster. I can't  
13 imagine that we're hearing a case of a  
14 restaurant that's there in operation and we  
15 don't know what the service floor area is.

16 MR. TOVAR: 720 square feet.

17 MS. FOSTER: Okay. Is that with the bar or  
18 without the bar? I mean if the bar hasn't been  
19 there in three years, however long he's been in  
20 business, is that correct? The bar hasn't been  
21 in operation. So is it--

22 MALE VOICE: The bar was never approved.

23 MS. FOSTER: Right.

24 MALE VOICE: This is the problem with the

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1 disconnect between the different parts of the  
2 planning department that approve things at  
3 different times. The project permit basically  
4 shows a bar being included because this is what  
5 the applicant requested at the beginning going  
6 for a restaurant to the community planning  
7 bureau without an alcohol permit filed at the  
8 same time. We approved the project permit that  
9 showed a bar, that showed 120 square feet of het  
10 patio being used. Zoning administrator in doing  
11 the alcohol permit at a different time one year  
12 later said no to the bar but the project permit  
13 because the zoning administrator didn't require  
14 the project permit to now be changed because now  
15 the applicant has this huge square in the middle  
16 of his restaurant to go back and change your  
17 project permit. So he has a big area in the  
18 middle of his place and he put some tables in  
19 it.  
20

21 MS. FOSTER: Okay.

22 MALE VOICE: And that's not totally illegal  
23 under this thing--

24 MS. FOSTER: No.

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1 MALE VOICE: --because when you look at that  
2 project permit and I might say the appellant in  
3 her package, it shows the last page, page A.02,  
4 if you look very closely at the bar it shows  
5 approximately twelve to fourteen seats at the  
6 bar. So they weren't included as part of the  
7 bar but you can always say he always applied  
8 that he'd have those fourteen seats if the bar  
9 wasn't approved. So those are what the problems  
10 are.  
11

12 MS. FOSTER: But my question--I understand  
13 about the bar. I understand all that and by the  
14 way, no one on this commission wants to put your  
15 restaurant out of business; but what I don't  
16 understand is it rocket science to measure the  
17 serving floor area? Couldn't that have been  
18 done before this hearing? The bar is not there.  
19 It hasn't been there since they opened the  
20 restaurant. Isn't--is that--shouldn't we have  
21 that information in front of us tonight? I mean  
22 it would help me.

23 MR. TOVAR: I don't think we need to measure  
24 because I don't think there is a question as to

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whether or not they're exceeding 720 square feet of service floor area.

MS. FOSTER: Okay. But--

MR. TOVAR: I think that's been established.

MS. FOSTER: But they are exceeding that and is that 720--I wrote down 810 square feet.

MR. TOVAR: That was my mistake. The 720 square feet.

MS. FOSTER: Okay. 720. Now, is that 720 including the bar being there or with the bar gone?

MR. TOVAR: 720 was what was approved under the project permit which showed a bar.

MS. FOSTER: Okay. The bar hasn't been there ever and so--

MR. TOVAR: Right. Exactly.

MS. FOSTER: So how many square feet is the bar? Can't we just add how many square feet the bar was to the square feet that we know is there and then we know what the service floor area is and maybe--

MR. TOVAR: It doesn't change. It's 720 square feet no matter what. With or without the

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bar you're--

MS. FOSTER: The bar is included in that 720 square feet.

MR. TOVAR: Right. So if you take out the bar you still do 720 square feet.

MS. FOSTER: Okay. So what is the formula that--

MR. TOVAR: But I can't say how many seats that translates to.

MS. FOSTER: That's what I'm saying. Now somewhere there is a specific plan that tells you, right?

MR. TOVAR: It just says service floor area and it's going back to the definition that--

MS. FOSTER: And does it say how many seats per service floor area?

MR. ARMBRUSTER: No.

COMMISSIONER GLENDA MARTINEZ: No. It just tells you how many parking you need for that service floor area.

MR. TOVAR: Based on floor area, right.

MALE VOICE: The service floor area does not in any way does the specific plan mention the

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number of seats that can be accommodated in the-

-

MS. FOSTER: Okay. So the zoning administrator came up with sixty seats inside-- forty four seats inside, sixteen seats outside.

MR. TOVAR: And was blind as to the service floor area. I'm sorry. Yes.

MS. FOSTER: Okay. But she saw that, you know--well, if you say the bar is part of the service floor area whether it's a bar or not I'm just--I think it's more confusing the more I hear about it. I mean it seems to me--

MR. TOVAR: Probably the best thing that should have happened was that the zoning administrator determination, the very first one, instead of saying maximum seating should be forty four and sixteen, it should be maximum seating shall be based on 720 square feet of service floor area as approved under the related project permit compliance.

MS. FOSTER: But I have a concern as well as Commissioner Martinez that I don't want to see someone in the planning office, no matter who it

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1 is, decide okay, they're going to get 100 seats  
2 and the community doesn't have an input and  
3 quite frankly that is a lot that's--that's far  
4 more than 20% of an increase in what they were  
5 granted in this 2007 hearing. So I, you know, I  
6 would go with the Venice community or the Venice  
7 neighborhood council with giving them months to  
8 come to compliance but I don't want to see  
9 compliance be sure, they get 100 seats. I mean  
10 I don't know that that's--just a minute.  
11

12 COMMISSIONER GLENDA MARTINEZ: The public  
13 hearing is closed. Please.

14 MS. FOSTER: I don't know that it won't stay  
15 100 seats but I think there needs to be a nexus  
16 between what was granted and what they're doing  
17 and it, to me, reading the reports and seeing  
18 the restaurant--I didn't go inside but I saw the  
19 outside--I just--I mean I'm sure it's a  
20 wonderful restaurant. No one is questioning  
21 that. I just think that we have to consider the  
22 Venice community. We have to consider parking  
23 and so I don't know.

24 MR. DONOVAN: Commissioner Donovan. I just



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1 have a couple more questions. I'm still, I  
2 thought I understood it and every time I think I  
3 understand it it gets foggier. I've heard the  
4 appellant and I think I heard you say that you  
5 can't change the conditions of approval by more  
6 than 20% without a new CUD--

8 COMMISSIONER GLENDA MARTINEZ: Excuse me.  
9 Someone keeps talking and it's really hard for  
10 us to hear up here. So please keep it down.

11 MR. DONOVAN: I'll repeat my question. You  
12 can't change the conditions of approval by more  
13 than 20% without a new CUB application. Is that  
14 true?

15 MR. TOVAR: I wouldn't say conditions. You  
16 can modify an entitlement. Let's just say you  
17 had a thousand square feet of commercial space  
18 approved by conditional use. It was commercial  
19 corner review and you had to go through a  
20 conditional use permit and you had a thousand  
21 square feet. And then you come back and say we  
22 want to add a 200 square feet. So now you've  
23 got 1200 square feet. You're at that 20%  
24 threshold. You can do that with a plan

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approval. The conditions--

MR. DONOVAN: Let's just deal specifically with the condition that was made by the ZA in May of 2007, forty four seats and what was the other one? Eighteen--

MS. FOSTER: Sixteen on the patio.

MR. DONOVAN: Sixteen on the patio. Can you change that condition by more than 20% without a new CUB application?

MR. TOVAR: That's a question for the city attorney. I'm not--

MR. DONOVAN: Okay. So we don't necessarily--we heard that from the applicant. The appellant says you can't. The applicant says you can and you're not sure about that and we don't have the city attorney here. Okay.

MR. TOVAR: Correct.

MR. DONOVAN: Okay. We know that the applicant has not made a new CUB application. That's correct?

MR. TOVAR: Correct.

MR. DONOVAN: Okay. Now if the applicant were to make a new CUB application and filed it

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tomorrow, when would it be heard?

MR. TOVAR: It would probably take about nine months, six months to a year. I mean if we had a back log it would have taken a year. I think we've gotten better so about nine months let's say.

MR. DONOVAN: Okay. Because I also heard the mayor's office say give them six to eight months. So I'm thinking, if they want more seating in this restaurant and that's the issue and they think they deserve it, I mean I'll go back. When we had this hearing on April 21, 2010 about 1305 Abbott Kenney [phonetic] and it was the same owner and I can't remember if it was the owner or his representative but I wrote it down with my green pen as they said it, they're working to get city approval of more seats at Jalina. And now it's a year later and there's still no application filed to ask for more seats. They may get more seats if they apply for it. There may be good reason for it. I don't know but I don't like the idea of someone just putting the seats and saying we're

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1 going to ask for more and then not doing it and  
2 coming in here and we're supposed to rubber  
3 stamp it. I agree with everyone else. I  
4 stipulate it's probably a great restaurant.  
5 Some day maybe I'd like to go there. But you  
6 have to follow the process here so there can be  
7 a hearing. So I'm thinking if the mayor's  
8 office wants to give them six to eight months to  
9 come into compliance, to me coming into  
10 compliance means applying for more seats. And I  
11 don't--at the same time I don't want to wait for  
12 seven months and twenty nine days and then have  
13 them apply so they can bump the whole process  
14 even longer than that. I don't see any reason  
15 why they've got counsel here and they can't  
16 apply within thirty days and get it in the  
17 system and if it comes up within a year or  
18 before fine and maybe it can be expedited. I  
19 don't know. And we go through the whole process  
20 the way it should be and the neighborhood can  
21 weigh in, pro and con for it. Maybe there will  
22 be an order you can have more seats but you have  
23 to have valet parking or you may have to provide

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1 off site parking or something like that. Maybe  
2 they'll work it out between the neighborhood end  
3 and we don't have to hear it again here. But I  
4 don't like the idea of sitting here and just  
5 saying well, let's just wipe out a condition  
6 that was decided in May of 2007 and nobody  
7 objected to it and the restaurateur just  
8 violated that condition. Because whatever I've  
9 heard today and maybe I'm nuts but the condition  
10 said forty four indoor seats and sixteen in the  
11 patio. That seems really clear to me. If they  
12 don't like it, if the business got better, you  
13 make a new application, you know, and you go  
14 through the normal process and you don't have  
15 the neighbors all upset and we're not sitting  
16 here at quarter after 7:00 still talking about  
17 this after a couple hours. So that's what I'm  
18 thinking. I'm willing to give--I'm not  
19 interested in closing them down. I'm willing to  
20 give them time to get in compliance but I want  
21 to see them do what needs to be done to be in  
22 compliance.  
23

24 [END 04ZA06-5028\_PART 4]

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[BEGIN 04ZA06-5028\_PART 5]

MS. FOSTER: I agree.

MR. LEE: Commissioner Lee. I think because the formula is all kind of screwed up somewhere, I'm just concerned about fire hazard. If the Department of Fire says there is 122 people that can be here, okay. I'm thinking number of seats, if you can put--you put a table there and you put two seats and 10,000 people stand what does that mean? I don't know. So the way I'm looking at it is not so much number of seats and people can stand. I don't know what that technical term is but for me the capacity of people that can be at this place in a safe way. So if the Department of Fire says it's 122 people and they have 100 people if there is a fire 100 people can go out safely. In terms of the number of seats, I don't know what that means. It doesn't talk about number of human beings. So I'm a little like kind of confused forty four seats, sixteen seats. It doesn't really matter to me because it's just a variable on the math but I'm more concerned about people

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1 that's going to be there at a certain time and  
2 are they safe and is it prudent for them to be  
3 there? If it is I'm totally in support of the  
4 business owners that kind of don't know the  
5 system where he needs to file for X, Y and Z but  
6 he went out of his way to the Department of  
7 Transportation--

8  
9 COMMISSIONER GLENDA MARTINEZ: Excuse me.  
10 If you don't keep decorum I'm going to have to  
11 ask people to leave.

12 MR. LEE: So if he went out of his way to  
13 the Department of Transportation and made nine  
14 parking spaces out of his time and effort and if  
15 he knew a little bit of tricks maybe he spent  
16 that time to file properly and bike racks and he  
17 had 40% of the employees participate in the  
18 metro program. This is a great entrepreneur  
19 that's built a good business. For him to be  
20 penalized for something he doesn't know? Maybe  
21 he doesn't have enough counsel and what have you  
22 but the thing is the fact that he's got counsel  
23 he knows what he needs to do. If he's here  
24 spending time, brought people that love the

## REGULAR MEETING (4/20/11)

1 restaurant. So for us to penalize on a  
2 technical terms of how many number of seats I  
3 think it's kind of like we're focusing on the  
4 wrong thing. I think we need to be focusing on  
5 how many number of people that can be at this  
6 place safely. So for my recommendation is to  
7 figure out how we can make a motion to put an  
8 end to this and they have a fiduciary duty to do  
9 what's right for the city and they have a  
10 fiduciary duty to do what's for everything else.  
11 So I would like to make a motion if everyone is  
12 kind of done to basically deny the appeal,  
13 sustain the zoning administrator and give these  
14 guys nine months to comply and if they decide to  
15 change because of Commissioner Donovan I think  
16 that's a great strategy, great recommendation  
17 too. So that's my motion. I make a motion to  
18 deny the appeal, sustain the zoning  
19 administration decision and give them nine  
20 months to comply.

22 COMMISSIONER GLENDA MARTINEZ: Is there a  
23 second? The motion dies. Can I make a  
24 statement? I think from everything we've heard

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1 this is a wonderful restaurant, this is a great  
2 entrepreneur. He's doing great things in the  
3 community. But the issue here for me is when a  
4 CUB is approved one of the things that is looked  
5 into is the impact that it's going to have in  
6 the community and the limitations on seats are  
7 to address those issues. The parking issues,  
8 the impact in the community and I feel very  
9 uncomfortable going with a motion, approving a  
10 motion where we are eliminating some of those  
11 conditions which were part of the grant and were  
12 considered as part of the grant. That's where  
13 I'm having a hard time here.

14  
15 MR. LEE: On that, you know, I totally agree  
16 with you. I think the neighborhood watch,  
17 they're not pinpointing this restaurant. I  
18 think they're here for every other business or  
19 commercial use where they want--they have a very  
20 good point. But on this one I think it's kind  
21 of like you got to have an exception. This is  
22 an exceptional business creating a lot of jobs  
23 and the owner is going out of his way to make  
24 parking spaces. If it was any other

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1 establishment that doesn't live and contribute  
2 to the community then you're absolutely right.  
3 But to come after every other business and say  
4 Venice has a parking problem parking problem,  
5 maybe we can kind of use another win win  
6 strategy. Maybe you guys can go around and  
7 collect some donations from the business,  
8 collect some donations from the residence and  
9 maybe have a shuttle service and someone  
10 recommended some place in Westminster where  
11 there is empty lots and the city is not doing  
12 anything. Maybe we can kind of use our efforts,  
13 money and time to figure out how we can allocate  
14 a parking space, raise some money, build a  
15 parking lot and have free shuttle service for  
16 people that needs to park after midnight or  
17 something like that, you know, but to penalize a  
18 person that's worked hard, put his blood, sweat  
19 and tears, created jobs and went out of his way  
20 for parking spaces and even required his  
21 employees to take metro? You know this is maybe  
22 one business that you can just kind of give an  
23 exception and they're not only great for the  
24

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1 city of Venice, I think they're great for the  
2 city of Los Angeles.

3  
4 MR. DONOVAN: Commissioner Donovan. Before  
5 I may want to second your motion or I may want  
6 to modify it but I have another inquiry. What--  
7 this is for staff. What is our ability or power  
8 if any to expedite any new application made by  
9 this restaurant toward hearing and  
10 determination?

11 MR. TOVAR: Let me just--before I answer  
12 that question let me clarify one thing to make  
13 sure there is no misunderstanding on the  
14 process. Okay. So in 2007 the conditional use  
15 to allow alcohol sales was approved. So today  
16 we're not here to evaluate or second guess the  
17 zoning administrator's approval of that  
18 conditional use permit, which at the time no  
19 appeals were filed on. However, we are  
20 evaluating and reviewing compliance to  
21 conditions. So basically the maximum authority  
22 that the commission would have is to, you know,  
23 again, make a determination as to whether or not  
24 the use is in compliance or not and if it's not

## REGULAR MEETING (4/20/11)

1  
2 in compliance then the question is what can you  
3 do with the conditions in terms of adding  
4 corrective conditions to try to raise the level  
5 of accountability or to try to mitigate the  
6 problems that are on the site. To a certain  
7 extent we try to do that. If there is--the  
8 commission is uncomfortable with the whole idea  
9 of eliminating the maximum number of seats  
10 because probably some limit is better than no  
11 limit, then certainly you can go back and modify  
12 condition six and reinclude the limit that was  
13 previously established.

14 MR. DONOVAN: Can we make a condition that  
15 the restaurant has to apply for a modification  
16 of the May CUB conditions within thirty days  
17 from today and get that application in the  
18 pipeline?

19 MR. TOVAR: I want to say that I think you  
20 could require the applicant to file an  
21 application, but let's be clear. You want him  
22 to file an application to either modify--to  
23 obtain a new approval under the specific plan to  
24 make sure that the existing floor area or what

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have you, the service floor area--

MR. DONOVAN: No. It's to modify the CUB conditions imposed in May of 2007.

MS. FOSTER: What you're saying is you do not want to accept his--like seven and six, six and seven. You don't want to accept that he removes the seating requirement?

MR. DONOVAN: I'm not sure whether or not I want to accept it or not but what I do want to see is I want to see this restaurant do the appropriate things to apply for how many seats they want to have in there, have it vetted by the neighborhood and have everybody look at it and have a hearing. I would have thought that that would have been done in the last year but if that can't--it wasn't. So I want it done now and I don't want the neighborhood to have to wait until next May 2012 for that application to be filed. I want it filed in the next thirty days.

MR. TOVAR: Right. I understand. So I think what you're saying is that what you would like to do is include a condition that requires

REGULAR MEETING (4/20/11)

1 the applicant to modify--to apply for a  
2 modification to the project permit that was  
3 approved.  
4

5 MR. LEE: Within thirty days.

6 MR. TOVAR: Within thirty days of today.

7 You want them to file for a brand new CUB  
8 application?

9 MR. DONOVAN: Either a brand new CUB or a  
10 modification of the one from May 2007 that  
11 expires in 2012. Either one is fine with me as  
12 long as they apply for it.

13 MR. TOVAR: To the extent that this has an  
14 expiration of next year, they probably need to  
15 file it today to get it--

16 MR. LEE: January, right?

17 MR. TOVAR: --heard before that.

18 MR. DONOVAN: Well, I thought they were  
19 going to file it a year ago, but it wasn't--

20 MR. LEE: I think Mr. Donovan is doing them  
21 a favor.

22 MR. DONOVAN: --done. So I want--

23 MR. TOVAR: I understand.

24 MR. DONOVAN: I'd like to put a time limit.

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It's got to be filed in thirty days.

MR. LEE: Great idea.

MR. TOVAR: I guess so because I mean what's the worst that can happen? If they don't file it then they don't want to pursue--

MR. LEE: No. I think the owner knows that this is serious business now. You can grow your business like Commissioner Donovan wants to make sure the paper reflects your growth of your business. Okay. Pay a fee and file and it's absolutely correct.

MR. DONOVAN: Just follow the rules.

COMMISSIONER GLENDA MARTINEZ: Commissioner Donovan, I'm still trying to follow where you're going with this. If we were to deny the appeal and impose a condition that they file this what would we be doing with regards to the--

MR. DONOVAN: What we'd be doing is granting in part and denying in part.

MS. FOSTER: That's what I was saying. You don't want to totally--

COMMISSIONER GLENDA MARTINEZ: Right. But with regards to the conditions, seven and nine.

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[Cross talk]

MR. TOVAR: I'm sorry. I just want to clarify very carefully and be very clear about this. Whatever happens, if they file for a new CUB or a modification to this one, we have no jurisdiction to modify the project permit that was issued in 2006 which is what determines the allowable service floor area.

MR. DONOVAN: But--

MR. TOVAR: So any action on the conditional use doesn't resolve the issue of service floor area.

MR. DONOVAN: But wait a second. Are you saying that in a CUB application the zoning administrator and this commission cannot impose a maximum number of seats in a restaurant?

MR. TOVAR: He could but because this is within a specific plan area that establishes maximum service floor area or before you trigger parking and all that has to be looked at really the specific plan prevails here.

MR. DONOVAN: The specific plan provides for a maximum but that number can be lowered based



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1 on a variety of factors including crime in the  
2 neighborhood, number of other alcohol  
3 establishments, parking, traffic and so you  
4 don't have to go with the maximum permitted by a  
5 floor area ratio.  
6

7 MS. FOSTER: No.

8 MR. TOVAR: If they file for a modification  
9 to increase the service floor area it can be  
10 denied, absolutely, based on whatever--

11 MR. LEE: I think what Commissioner Donovan  
12 is saying it's not like they have to file a CUB.  
13 They just have to modify something, correct,  
14 within thirty days. Get the paperwork started.

15 MS. FOSTER: We have to decide what our  
16 motion is going to be.

17 MR. DONOVAN: What I was just saying to  
18 staff, they're saying well, if the floor area is  
19 going to govern and that's contrary to my  
20 understanding because there are a lot of other  
21 factors that govern how many seats can be  
22 allowed in a restaurant.

23 MR. TOVAR: Not within the specific plan.

24 MR. LEE: Can we follow the Department of

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Fire where they can't exceed--

MS. FOSTER: We're not--that's--

[Cross talk]

MS. FOSTER: We're planning. We have nothing to do with fire safety.

MR. RAUSCH: This is Charlie Rausch. The problem with this case is you have a specific plan area that regulates parking and various other things by service floor area. You have a zoning administrator who's used to looking at site plans and seeing seats and saying seats determine parking. They don't in this particular case. You've got a project permit that shows certain floor areas that are service floor areas that are inconsistent with the project permit. So the project permit really to clean up a lot of the problems with this case such as the bar that's already been mentioned is now being used as service floor area, you need a modification of the service floor area and since it takes a while to get cases to the zoning administration, I'm in charge of paper flow there, I can tell you we've got two hundred

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1 cases ahead of you. So guess how long it's  
2 going to take to process those. You should file  
3 within the thirty days as you had suggested to  
4 get the new conditional use permit filed and he  
5 should also file for a project permit  
6 modification to the existing project permit to  
7 clean up this problem with the service floor  
8 area, because that's also a problem with this  
9 particular case and it's also been mentioned by  
10 the appellant in this case, who did a very fine  
11 job of showing some of the problems with this  
12 restaurant.  
13

14 MR. DONOVAN: Right. And the service floor  
15 area issue, say you had--pick a number--

16 MR. RAUSCH: That's something the zoning  
17 administrator could take care.

18 MR. DONOVAN: Right. But what I'm trying to  
19 elucidate here is that if you've got a service  
20 floor area of X amount that ordinarily would  
21 allow so many seats in an area then it comes  
22 from the CUB. The zoning administrator and this  
23 planning commissioner can impose conditions that  
24 would lower that number of maximum number of

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seats in a restaurant based on a variety of other factors, isn't that true?

MR. TOVAR: I want to say that's correct.

MR. DONOVAN: Okay. All right. So I think I've got that straightened out. So in terms of dealing with this--Commissioner Lee's motion and figuring out what we're going to do on this, on one hand we're going to grant in part and deny in part and we're going to impose a condition that the restaurant file an application for either a modification of the prior CUB or a new CUB within thirty days. So that's one part of that motion. The next aspect is that how many people get to sit in this restaurant until this motion is heard? That's the next issue, right? You're looking at me like I have the answer to that, but because on one hand to me the restaurant is going to remain open as far as I'm concerned.

MS. FOSTER: Right.

MR. DONOVAN: And it's going to continue to do business and eventually we're going to get this seating part done and we're going to know

## REGULAR MEETING (4/20/11)

1 how many people are going to be in this  
2 restaurant. And the question is going to be  
3 what happens until then because on one hand, the  
4 restaurant is popular and I want to see it stay  
5 in business. On the other hand I find it a  
6 problem that they restaurant hasn't done its  
7 homework and done this a long time ago so we're  
8 not in this situation. So on one hand, just  
9 bumping up the seating to a hundred when you've  
10 got one condition that says only forty four and  
11 sixteen, that's a problem for me. It's also a  
12 problem having a lot more people on that patio  
13 than sixteen people and I don't know if we need  
14 to find some middle ground on this until this  
15 new application is done and maybe that would be  
16 appropriate.

17  
18 MS. FOSTER: One thought for a middle ground  
19 would be to allow them at least until the CUB is  
20 heard, the 20% they're allowed, which would be  
21 another twelve seats. I would have no problem  
22 with that. So if we say until--I mean if they  
23 get it filed within thirty days then we say  
24 because you have the ability to grant them a 20%

REGULAR MEETING (4/20/11)

1  
2 increase, which would be another twelve seats  
3 what the zoning administrator--

4 MR. LEE: Can we--

5 MS. FOSTER: Wait a second.

6 MR. LEE: Okay.

7 MS. FOSTER: And so--

8 MR. DONOVAN: So you say 20% more seats. So  
9 that would allow them to have fifty six seats in  
10 the restaurant but no more than sixteen still on  
11 the patio?

12 MR. LEE: I think we're arguing about--

13 MS. FOSTER: No, I think that I'm  
14 comfortable with that. Sixteen on the patio--

15 MR. LEE: Talking about seats, we're talking  
16 about number of people and what can we give the  
17 staff that has more experience in what we're  
18 doing, give them the discretionary to decide  
19 that. What are we telling them ten seats,  
20 twelve seats?

21 MS. FOSTER: We're just--

22 MR. LEE: We're limiting them.

23 MR. DONOVAN: The reason why, to answer your  
24 question, is that we've got a part of the

REGULAR MEETING (4/20/11)

1 community coming in there objecting that certain  
2 conditions were laid down and these conditions  
3 were not followed and you have to respect that.  
4 At the same time, they are asking on one hand  
5 that we close the restaurant down. We're not  
6 going to do that, okay; but I don't know that we  
7 say keep a hundred seats in there until such  
8 time as a year passes, another year passes by  
9 until you can--

11 MR. LEE: The mayor's office asked us to  
12 give six to eight months for them to comply.

13 MS. FOSTER: That's what we're doing.

14 MR. LEE: Okay. So now you're talking--

15 MS. FOSTER: We're giving them time to  
16 comply.

17 MR. DONOVAN: Yes.

18 MR. LEE: You're right.

19 MS. FOSTER: But meanwhile they have to  
20 comply. We're saying go at least by the rules  
21 that were written when you opened your  
22 restaurant and we're giving them--my idea would  
23 be to give them another 20% so they can have the  
24 seating inside, 20% so they add another twelve

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seats inside that would be--

MR. LEE: How about outside?

MS. FOSTER: Sixteen--

MR. LEE: Plus another twenty percent?

MS. FOSTER: No. Twenty percent for the whole seating.

MR. LEE: Total.

MR. DONOVAN: Total.

MR. TOVAR: Total. Inside or outside I wouldn't even break it down by--

MS. FOSTER: Okay.

MR. LEE: Okay. So total what is that?

MR. TOVAR: I mean you could do that but--

MS. FOSTER: So they could get another twelve seats. So they would get seventy two seats, which is--

MR. LEE: So you knock the business by 30%? Thirty percent is going to cost 30% in jobs. I mean we are busting their business then.

MS. FOSTER: No, we're not.

MR. LEE: Yes, we are. Thirty percent loss of any business is a loss.

MS. FOSTER: Excuse me.

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COMMISSIONER GLENDA MARTINEZ: I'm sorry.

Guys, please.

MR. LEE: - - about this. Okay. Thirty percent loss in any business takes away profits. He should file bankruptcy. We're putting that guy out of business, okay. For someone who went out of his way to make nine parking spaces and 40% of his employees are taking metro. Give them a break.

MR. TOVAR: If it helps to clarify, they're not entitled to a hundred seats at the moment anyway.

MR. LEE: I know that.

MR. TOVAR: There is no question. Okay.

MR. LEE: The mayor is asking, the councilman is asking don't ruin their business. For us to limit it, we are shutting their business down. That's my opinion.

MR. DONOVAN: My response to that is they go through the whole application problem. They may not be entitled to a hundred seats anyway.

MR. LEE: That's true.

MR. DONOVAN: So--

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MR. LEE: That's--they've got six months,  
nine months--

MR. DONOVAN: So he'll have to figure out  
how to run his business if they--

MR. LEE: In six or nine months they can go  
buy another property across the street or  
whatever it is, okay. For them to go tomorrow  
and shut down thirty percent of the business I  
think we're just saying, you know what, just  
close the business.

COMMISSIONER GLENDA MARTINEZ: If they were  
to file in the next month how long would it take  
you said? Until probably a year from now?

MS. FOSTER: Nine months he said.

MR. TOVAR: I can't say.

COMMISSIONER GLENDA MARTINEZ: But  
meanwhile--

MR. LEE: Let's make a deal. Give this one  
to me.

MR. TOVAR: Applications are coming up and  
then we have a backlog which we're whittling  
down. So you know, you file your application  
and you get in line.

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MR. DONOVAN: I'm assuming also that the mayor's office could probably request that this move up to the front of the line if it was so important to keep this business going.

MR. TOVAR: They could indeed.

MS. FOSTER: So we have a motion on the floor and we don't have a second yet.

MR. LEE: As a fellow commissioner, my personal--any other case I would be more flexible with you guys, okay. That's--on this one as Chris Lee, please give me the vote of confidence and not put these guys out of business and give these guys--

MS. FOSTER: We don't want to put them out of business.

MR. LEE: Okay. So please on this one I ask. Someone second and give me a vote of confidence on this one. Any other business that may not have had a founder that's not as citizen or local citizen who went out of the way of making parking spaces and having employees to do that, you know, for an entrepreneur to do that it takes a big heart. You can't find people

REGULAR MEETING (4/20/11)

1 like that who is in business. It's just very  
2 hard and we have someone here in Los Angeles in  
3 Venice I think they deserve an exception.  
4

5 MR. DONOVAN: I agree they deserve an  
6 exception. It becomes the--

7 COMMISSIONER GLENDA MARTINEZ: That's what  
8 we're trying to work out.

9 MR. DONOVAN: --degree of the exception  
10 granted. I don't think I want to give them a  
11 blank check just to get the hundred seats. So I  
12 think they've got to be cut down a bit because  
13 they go through--

14 MR. LEE: You can give them time to cut  
15 down, a time frame.

16 MR. DONOVAN: I'd be willing to give them  
17 time to cut down.

18 MR. LEE: That's fair? Or they start the  
19 process, right?

20 MR. DONOVAN: Right. So if I understand  
21 your motion then that we would grant in part and  
22 deny in part. We would impose the condition  
23 that they apply for a modification of the CUB  
24 within thirty days.

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MR. LEE: Thirty days.

MR. DONOVAN: They have--they can do what they need to do to try to get it expedited through the council office, through the neighborhood council and the mayor's office. They can keep the number of seats they have now for eight months. At eight months if there is no hearing or no expediting then it's going to drop down to 72 seats.

MR. LEE: Whatever you want after that.

MS. FOSTER: I can go with that.

MR. DONOVAN: And when we say eight months, someone give me a calendar date because--

COMMISSIONER GLENDA MARTINEZ: Six months. Can we say six months?

MR. LEE: Please.

MR. DONOVAN: I just want a date certain.

MS. FOSTER: I think, yes.

MR. LEE: The reason for eight months is the holidays coming up. Christmas is like 25% of anybody's business. So you've got to let them finish Christmas. Okay. So I say nine months. Let's settle for eight. It's April. You give

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1 them end of Christmas. At least give them  
2 Christmas, New Year's Eve celebration before  
3 they have to modify something.  
4

5 MS. FOSTER: They have to renew.

6 MR. LEE: I know. They have to do that  
7 anyway. And I--

8 MS. FOSTER: Go ahead.

9 MR. ARMBRUSTER: I appreciate the  
10 consideration. The Commissioner is right with  
11 regard to the holidays. I'm very experienced  
12 with processing these cases and how long it  
13 takes, although Lynn White says she's really  
14 breaking down the back log, but between  
15 Thanksgiving and Christmas which is right where  
16 the eight months fall a lot of things don't  
17 happen.

18 MR. LEE: Yeah.

19 MR. ARMBRUSTER: If we could have until  
20 January I think that gets us there.

21 MR. DONOVAN: The secretary just handed me,  
22 December 21<sup>st</sup> is eight months.

23 MR. LEE: What?

24 MR. DONOVAN: December--

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MS. FOSTER: That's January then.

MR. LEE: That's my point.

COMMISSIONER GLENDA MARTINEZ: I think I would go with the nine months.

MR. LEE: Thank you. Please.

MS. FOSTER: January 1.

MR. LEE: Come on.

COMMISSIONER GLENDA MARTINEZ: You would have to go later than January 1 because nothing is open.

MR. LEE: Just after New Year's. Please.

MR. DONOVAN: Okay. Then it would be January 1, 2011 this has to be--

MR. LEE: January 10<sup>th</sup>. You've got to give-- January is the New Year's Eve celebration so after New Year's Eve you've got two or three days.

MR. DONOVAN: We're talking adding extra days to--

MR. LEE: January 5<sup>th</sup>. Give us to January 5<sup>th</sup>. You have to celebrate the New Year's. It's a big night. Come on. No. I'm in retail and it's very critical. It's--

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MR. DONOVAN: Why the 10<sup>th</sup>? Make it January 5<sup>th</sup>.

MR. LEE: I already said the 10<sup>th</sup>. After the 3<sup>rd</sup> is fine with me.

MR. DONOVAN: All right. So they have until January 5<sup>th</sup> to get this heard and get the conditions modified, the CUB conditions modified or else they're getting bumped down to 72 seats and then they can still when the process goes on after that. They have to file within thirty days and--

MR. LEE: Make that motion and I'll second it.

MS. FOSTER: Why don't you make the motion?

MR. LEE: Yeah.

MS. FOSTER: You didn't get a second for your motion.

MR. LEE: Yeah.

COMMISSIONER GLENDA MARTINEZ: Your motion is dead. Mr. Donovan make the motion.

MR. LEE: All right.

MR. DONOVAN: Grant in part and deny in part. We're adding additional conditions to the



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1 staff recommendations, staff determinations.  
2  
3 Restaurant has thirty days to apply for a  
4 modification of the CUB conditions. They can--  
5 they are encouraged to seek expediting of their  
6 application. They will have until January 5<sup>th</sup>  
7 2012 to get this thing heard. If it's not heard  
8 by January 5<sup>th</sup> the condition imposed will be a  
9 maximum of 72 seats in the restaurant.

10 MS. FOSTER: I have a question. Do you want  
11 to--

12 MR. DONOVAN: All other conditions by staff  
13 will still stay in there.

14 MS. FOSTER: So you're going to just reduce--  
15 --you're going to remove the condition that was  
16 placed that said number of seats initially. So  
17 that will no longer even show up.

18 COMMISSIONER GLENDA MARTINEZ: Correct.

19 MS. FOSTER: Number six and number seven.  
20 Is that your wish to do that?

21 MR. DONOVAN: We're not removing them.  
22 We're modifying six and seven so that it'll be--

23 MS. FOSTER: So there would be no seating  
24 listed.

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1 MR. DONOVAN: No. We should make it 100  
2 seats.  
3

4 MR. RAUSCH: Basically you're allowing him  
5 to continue as he is now until January 5<sup>th</sup> unless  
6 there has been a modification or a new  
7 conditional use permit filed for and an action  
8 taken by January 5<sup>th</sup> and if there hasn't he goes  
9 down to 72 until such time as a determination  
10 and the appeal has been determined.

11 MR. DONOVAN: Right. And then also just so  
12 we understand what happened, if he doesn't file  
13 anything he's down to 72 on January 5<sup>th</sup> but his  
14 CUB is still going to have to come around.  
15 It'll still expire in May anyway. So he's going  
16 to have to do it, have it heard before then  
17 anyway and to be clear on the amount of seats  
18 that are allowed right now it's a hundred and  
19 everything else, no--no dining upstairs  
20 whatsoever, not even for private parties and--

21 MS. FOSTER: The garage stays open for  
22 parking.

23 MR. DONOVAN: The garage has to remain for  
24 parking only. Hours are all the same. No

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1 outdoor seating in the public right of way  
2 sidewalk. Background music may not be audible  
3 outside the property line. The noise buffer  
4 must be constructed. And--

6 MR. RAUSCH: May I make a suggestion?

7 Excuse me. One of the complaints raised in the  
8 appeal was noise after 11 o'clock. Restaurants  
9 normally have a closing time for an hour but  
10 people get served up until that time and it  
11 takes an hour to eat, so all of a sudden you're  
12 eating until 12 o'clock on the outside. I would  
13 suggest that no table service after 10 o'clock  
14 on the patio and that gives people one hour to  
15 eat and you're out of there by 11:00 and that  
16 condition is fulfilled.

17 MR. DONOVAN: I like it. I'll add it on.

18 Anything else?

19 MR. LEE: How about no serving after--okay.

20 MR. DONOVAN: So all we need is a second.

21 MR. LEE: I second.

22 MS. LINNICK: Commissioner Donovan?

23 MR. DONOVAN: Aye.

24 MS. LINNICK: Commissioner Lee?

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2 MR. LEE: Aye.

3 MS. LINNICK: Commissioner Foster?

4 MS. FOSTER: This one is for you.

5 MR. LEE: Thank you.

6 MS. FOSTER: Aye.

7 MR. LEE: I owe you one.

8 MS. LINNICK: Commissioner Martinez?

9 COMMISSIONER GLENDA MARTINEZ: Aye.

10 MS. LINNICK: The motion is carried.

11 MR. LEE: Thank you.

12 COMMISSIONER GLENDA MARTINEZ: The next item  
13 on the agenda is the public comment period. Do  
14 we have any public comment? No? No public  
15 comment. So this meeting is adjourned at 7:45.

16 [END 04ZA06-5028\_PART 5]

C E R T I F I C A T E

I, Teresa Salazar, Heidi Porter, and Julie Davids certify that the foregoing transcript of West Los Angeles Area Planning Commission Regular Meeting was prepared using standard electronic transcription equipment and is a true and accurate record.

Signature

*Teresa Salazar*

Teresa Salazar

Date April 29, 2011

Signature

*Heidi Porter*

Date April 29, 2011

Signature

*Julie Davids*

Date April 29, 2011