

PLANNING COMMISSION
Minutes of Regular Meeting
Westminster Council Chambers
8200 Westminster Boulevard
Westminster, CA 92683
October 18, 2006
6:30 p.m.

- Call to Order** The Planning Commission of the City of Westminster met in a regular session on Wednesday, October 18, 2006 called to order in the Westminster Council Chambers, at 6:30 p.m. by Chairman Turro.
- Roll Call** Commissioners present: Bertels, Chow, Cruz, Krippner, Turro
Commissioner absent: None
- Staff Attendance** Art Bashmakian, Planning Manager; Steve Ratkay, Associate Planner; Michael Patterson, Assistant Planners; Maria Moya, Department Secretary; and Christian Bettenhausen, Deputy City Attorney
- Salute to the Flag** All persons present joined in the Salute to the Flag, conducted by Chairman Turro.
- Approval of Minutes** The minutes of the regular meeting of October 4, 2006 were approved, on motion of Commissioner Bertels, seconded by Commissioner Cruz, and carried 5-0.
- Oral Communications** There were no Oral Communications received.
- Written Communications** Mr. Art Bashmakian indicated that letters were received related to the projects that will be considered by the Commission that evening.
- The Commission changed the order of the agenda to consider New Business before the Public Hearing.
- New Business A. Case 2006-88 Appeal of Staff's Decision to Planning Commission.** Appeal of Staff's decision pertaining to equipment screening and utility connections for a soil remediation unit. The site location is at 8481 Westminster Boulevard (northwest corner of Westminster Boulevard and Newland Street).

STAFF RECOMMENDATION: That the Planning Commission uphold Staff's decision to require compliance with the approved plans.

Chairman Turro indicated that Chevron had requested in writing Case 2006-88 for postponement to November 15, 2006 Planning Commission meeting, and he believed that this request should be granted.

Motion

On motion of Chairman Turro, seconded by Commissioner Bertels, and carried 5-0, the Planning Commission continued Case 2006-88 to the November 15, 2006 Planning Commission meeting.

Ms. Natasha Molla from Chevron was present but did not wish to speak.

Public Hearing A. Case 2006-24 Variance, Conditional Use Permit, Site Plan Review, Design Review. The proposal involves an application for a Variance, Conditional Use Permit, Site Plan and Design Review to allow the construction and operation of a 2,754-square foot 7-Eleven Market with off-sale beer and wine, less than required rear and interior side setbacks, and a CITGO self-service gasoline station beneath a 1,886-square foot canopy. The site is located at 13982 Bolsa Chica Road (Assessor parcel # 203-173-04).

STAFF RECOMMENDATION: That the Planning Commission adopt the draft Mitigated Negative Declaration and approve Case No. 2006-24 based on the findings and conditions found in the proposed resolution.

Mr. Michael Patterson made a brief presentation on the background of the applicant's request to allow the construction and operation of a 7-Eleven Market with off-sale beer and wine. He indicated that staff supports the request based upon staff's analysis, the project's compliance with the Municipal Code, comments received from applicable City departments, and the findings and conditions in the draft resolution.

The public hearing was opened and speaking in favor of the proposal was the applicant's representative, Mr. Peter Whittingham of 2400 E. Katella Avenue #350, Anaheim. He introduced the architects of the project, RHL Design Group, and Dennis Guthous, manager of 7-Eleven. Mr. Whittingham stated that he had worked extensively with staff on the project for more than a year that included the preparation of the proposed Mitigated Negative Declaration. Due to the limited size and configuration of the

property site, he indicated that a variance for reduced rear and side yard setbacks was requested. Mr. Whittingham added staff was very helpful in addressing the conditions of approval, specifically the following conditions which the applicant had requested to be amended: Condition No. 23 – He proposed an 8 a.m. – 8 p.m. delivery as it would be hard for the fuel company to guarantee delivery between 9 a.m. – 5 p.m.; Condition No. 20 – He requested to extend the time to 2 a.m.

Mr. Bob Superneau of RHL Design Group, 2401 E. Katella Avenue #400, Anaheim, indicated that he was available to answer matters pertaining to the architecture of the building, site layout, or parking and circulation.

Mr. Denis Guthous, marketing manager for 7-Eleven Company, indicated that he is responsible for 90 7-Eleven stores in southern Orange County. He stated that their company's vision is to be the best retailer and convenience store in the area by guaranteeing fresh delivery of baked goods daily, introducing new items weekly, and using "retailer initiative technology" to accommodate the needs of their customers.

Mr. Randall Russell of 13431 Grambling Circle, was opposed to the project because he felt the project is oversized for the lot area. He expressed the following concerns: the proposed store will block his house since it is only 9 feet, instead of 25 feet, away from his lawn; potential noise from the 24-hour store operation, air conditioning and refrigeration units; and foul smell from trash and gasoline. He pointed out that these factors will negatively impact the value of his home.

Mr. Russell presented an alternative location, at the corner of Springdale and Westminster Boulevard, which he considered more appropriate for the project since it is close to the freeway and away from the residential neighborhoods. He added that the City should put something more attractive at that site, corner of Bolsa Avenue and Westminster Boulevard, as it is the gateway to the City of Westminster from Seal Beach.

If the Commission approves the project, Mr. Russell, requested a secondary fence higher than 6 feet to avoid anyone from jumping over the wall. He also added that it is better to have a business that closes at 10 a.m. instead of operating for 24 hours.

Mr. Don Salow of 5062 Northwestern Way, concurred with Mr. Russell. He added that the proposed project will cause a negative

impact on traffic and may even encourage speeding. He stated that the City should not encourage the sale of CITGO gasoline that is derived from Valenzuela.

Addressing the variance request, Mr. Whittingham explained that buildings are designed to be compatible with the residential spaces by using plants, trees, and other landscaping to serve as buffer. He stated there will be a 6-foot block wall on the entire property line which will be monitored by security cameras, and the area between these northern and eastern walls will not be used for storage, product delivery, or customer/employee entrance or smoke lounge area. Regarding potential traffic problems, Mr. Whittingham informed the Commission that the traffic study showed that only 45 percent will travel eastbound of Westminster Boulevard. Because the traffic is relatively light, making a left or U turn along Westminster Boulevard and Bolsa Chica Road is safe. He assured the Commission that the building will be well-done architecturally. On the whole, Mr. Whittingham was confident that the 7-Eleven project would be the most appropriate use for the site which has been vacant for about 8 years.

The public hearing was closed.

In response to Commissioner Chow's question regarding property maintenance, Mr. Guthous mentioned that they have a process called "PMR" wherein 7-Eleven Company performs monthly surveys of all their store properties and grading it according to cleanliness, food items' freshness and availability, and service. This also includes a supplemental evaluation two times a week to ensure that store premises are well-maintained.

Chairman Turro supported staff proposed hours of fuel delivery from 9 a.m. – 5 p.m., but preferred that all other deliveries end up at 9 p.m. instead of 11 p.m. so that it will not interfere with the residents.

Commissioner Chow suggested raising the fence to 10 feet, but Mr. Bashmakian explained that anything higher than 8 feet would require a variance. Mr. Patterson confirmed to Commissioner Chow that there were no problems reported to the Police Department with regards to nearby 7-Eleven stores within the last four months.

In terms of property values, Commissioner Krippner felt that the 7-Eleven proposal would have a milder effect than the potential

hazardous chemicals from the nearby former US Naval Weapons Station. In general, however, he was sympathetic to the residents.

Commissioner Cruz inquired about lessening potential noise from the air conditioning units. Mr. Superneau responded that the air conditioning units will be energy efficient and will not create a lot of noise. Furthermore, the units will be on the roof on the higher part of the building. Mr. Whittingham added they have never received any complaints regarding noise from their air conditioning units.

Commissioner Cruz stated he was also opposed to the late deliveries as it can create noise and cause disturbance to nearby residents. Related to this, Commissioner Krippner mentioned Mr. Ly Tran's letter, a resident, who complained about the ongoing noise from nearby traffic and the potential noise problems that the 7-Eleven Store may generate. Commissioner Krippner reiterated that he was favorable to the residents.

Mr. Guthous informed Commissioner Bertels, who was concerned about parking, that the store will employ 10-15 people depending on the volume of sales. These employees will use public transportation or park in their parking area.

Although she understood the concerns of the residents, Commissioner Chow indicated that the Commission should consider what would be most beneficial to the City. She stated that the City is losing revenue since the property has been vacant for 8 years and there would be no other appropriate use for the property other than a gas station.

Commissioner Krippner asked the residents for suggestions for other acceptable uses of the property. Mr. Russell suggested a Starbucks coffee shop, sandwich shop, a bookstore, or even a 7-Eleven Store which would not operate for 24 hours and which will not be oversized.

If the proposal is approved, Commissioner Chow required that the applicant provide a better landscape plan by planting trees along the block walls to screen its neighbors.

In response to Commissioner Cruz regarding the 24-hour operation, Mr. Guthous answered that it was necessary to open for 24 hours for financial reasons. If the Commission disapproves their proposed 24-hour operation, Mr. Guthous claimed they will not get their return of investment and they will not be inclined to build on the site.

Chairman Turro was still concerned particularly about the delivery hours of 6 a.m. – 11 p.m. for soft drinks and similar items which can cause a lot of noise during delivery. He stated that he would only approve the project if the delivery hour was moved to 9 p.m. Mr. Guthous responded that fresh baked food items are delivered daily from 8:30 p.m. – 11:00 a.m. by small trucks that put their refrigeration units in silent mode. With regards to soda deliveries, Mr. Guthous said that he will work with those vendors to make daytime deliveries only.

Motion

Chairman Turro moved that the Planning Commission adopt Mitigated Negative Declaration and approve Case No. 2005-24 based on the findings and conditions in the draft resolution. Commissioner Chow seconded.

Mr. Bettenhausen asked Chairman Turro if he was revising Condition No. 20 by changing the hours from 7 p.m. – 2 a.m. in order to remain consistent with Condition No. 15. Chairman Turro, with the consent of the second, amended his motion to include an amendment to Condition No. 20 by extending the operating hours from 7 p.m. – 2 a.m.

Commissioner Krippner made clear that “after 2 a.m.” of Condition No. 15 pertains to the next day, and except for four hours of the day, there will be 20 hours of liquor sales as requested.

The motion carried 3-2, Commissioners Cruz and Krippner dissented.

Commissioner Chow advised the applicant to post a contact phone number in the project site for the benefit of the residents, and the applicant assured her they will do so.

Motion

Commissioner Krippner moved that the Commission reconsider the action of the Commission. Commissioner Cruz seconded, and the motion carried 2-2-1, Chairman Turro and Commissioner Chow dissented and Commissioner Bertels abstained. Thus, the motion died and the previous action stands.

- B. Case 2006-61 Conditional Use Permit.** Conditional Use Permit request to serve alcoholic beverages for on-site consumption (Type 47 alcohol license) in conjunction with an existing restaurant. The site is located at 9477 Bolsa Avenue (Assessor’s Parcel Numbers 098-171-15 and 098-171-16).

STAFF RECOMMENDATION: That the Planning Commission approve Case Number 2006-61 (CUP) based on the findings and conditions as outlined in the proposed resolution.

Mr. Steve Ratkay stated that this is a request to serve alcoholic beverage for on-site consumption in conjunction with an existing restaurant. Based on staff's findings and review, Mr. Ratkay recommended that the Commission approve the request based on the findings and conditions in the draft resolution.

The public hearing was opened.

Speaking in favor of the application were the business owner Phicharn Charusombat of 9447 Bolsa Avenue and the manager of the restaurant Dien Chu Phan of 9591 Mirage Avenue, Garden Grove.

No one spoke in opposition and the public hearing was closed.

Commissioner Krippner raised no objection to the request. Since the restaurant is in a commercial retail area where a number of other restaurants operate and the site has been vacant, Commissioner Krippner felt it was reasonable to grant the permit to sell alcoholic beverages for on-site consumption.

Chairman Turro indicated that the alcoholic beverage will compliment the food in the restaurant.

Commissioner Chow suggested that sale of alcoholic beverage end at 10 p.m. instead of 12 a.m. However, Mr. Charusombat stated that food is served until 12 a.m. Commissioner Krippner pointed out it will be reasonable to serve alcohol in conjunction with the serving of food, and since food is served until 12 a.m., sale of alcoholic beverages can stop by 11:30 p.m.

Motion

Commissioner Cruz moved that the Commission approve Case Number 2006-61 based on the findings and conditions attached in the draft resolution including the condition that sale of alcoholic beverages will be from 11 a.m. to 10 p.m. Commissioner Chow seconded.

Chairman Turro informed Mr. Charusombat it was necessary for him to sign the Affidavit for Conditional Use Permit Application Related to Sale of Alcoholic Beverage (ABC) form. Mr. Charusombat expressed his willingness to sign the form. He also

confirmed with Mr. Bettenhausen that he never had any prior violation with his ABC license.

With the permission of Commissioner Chow, Commissioner Cruz amended his motion to include that the applicant signs the Affidavit for Conditional Use Permit Application Related to Sale of Alcoholic Beverage (ABC) form. Commissioner Chow seconded.

Commissioner Chow asked Mr. Bettenhausen if she could translate the Commission's motion to the applicant. Mr. Bettenhausen advised her that she cannot be limited to what she wants to say but discouraged her to interpret on behalf of the Commission. Chairman Turro commented he preferred that the Commission speak the language that everybody understands.

The motion carried 5-0.

Old Business There was no Old Business scheduled for review.

Administrative Approvals The Planning Commission received notification that there was no Administrative Approval item reviewed by the Planning Manager.

Reports and Comments:

Planning Manager Mr. Bashmakian thanked staff for the presentations and good work.

Follow up to Commissioner's Related to code violations at 9902 Woodsmere, Mr. Bashmakian informed the Commission that he received an email from Code Enforcement Manager Vicki Morgan stating that the City is actively working with the City Attorney's office on this matter and an arraignment has been scheduled for October 25.

City Attorney In connection with the issue of translating, Mr. Bettenhausen explained that although everyone has the first amendment right to speak his mind, he felt as a matter of practice during the Commission meeting, Commissioners or staff should avoid acting as interpreters. He stated that the Commission's motion could be explained later. He told the Commissioners that he will research to check if the Planning Commission can rule to conduct its business in the English language only.

Planning Commissioner's Comments None

**Reporting on
AB 1234**

None

Adjournment

The meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Maria Moya
Department Secretary