

**PLANNING COMMISSION**  
**Minutes of Regular Meeting**  
**Westminster Council Chambers**  
**8200 Westminster Boulevard**  
**Westminster, CA 92683**  
**October 4, 2006**  
**6:30 p.m.**

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**Call to Order** The Planning Commission of the City of Westminster met in a regular session on Wednesday, October 4, 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; Christopher Wong and 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 Commissioner Cruz.

**Approval of Minutes** The minutes of the regular meeting of September 20, 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** There were no Written Communications received.

**Public Hearing A. Case 2006-56 Conditional Use Permit, Site Plan Review, Design Review.** The proposal involves the construction of a new, 2,500-square foot, single story building for the establishment of a single-tenant automobile repair facility. The proposed site location is between 7185 – 7195 Westminster Boulevard (Assessors Parcel Numbers: 096-084-15 and 096-084-27).

STAFF RECOMMENDATION: That the Planning Commission approve the conditional use permit, site plan, and design review subject to the conditions included in the proposed resolution.

Mr. Michael Patterson stated that two letters pertaining to the above case were received by staff after the agenda packets were

delivered, and copies of these letters were provided to the Commission. One of the letters requested more information about the project and the other letter from the adjacent business owner expressed concern that the proposed auto business will obstruct her business.

Mr. Patterson presented the description and analysis of the project. He stated that although staff supports the request to operate an auto repair facility, it recognizes that the project does not meet certain Public Works Code standards. Staff had discussed these issues with the applicant and the applicant was willing to correct some of them. However, rather than correcting all the issues and applying for a variance, the applicant chose to take the project forward as is for Planning Commission review. Mr. Patterson indicated that staff supports the project based on the project meeting code and standards imposed by Public Works.

The public hearing was opened.

Ms. Kathy Cole of 2225 E. Monroe Avenue, Orange, stated that the proposed project is consistent and will improve the surrounding area which is mostly developed with automotive businesses, and will improve it.

Mr. Arthur Ponti of 5091 Berkeley Avenue, reiterated the project has merits and is consistent with the neighborhood use. He pointed out that due to the limited size of the lot, the building is oriented towards Cherry Street which does not conform with City Code. He felt this orientation was more conducive than having the building end up right against the side walk on Cherry Street with another curb cut from Westminster Boulevard to access the property. As there were also some sign issues, Mr. Ponti indicated that he would address them. Mr. Bettenhausen inquired about the ownership of the property and Mr. Ponti informed him that Westminster Redevelopment Agency currently owns the property and the transfer of the title is based on the completion of the project.

Speaking in opposition, Ms. Annie Le of 7179 Westminster Boulevard, stated that her property is directly adjacent to the proposed site. She requested the Commission to reconsider the proposal because the project's block wall on the side property line will completely block and affect her smog check business.

In rebuttal, Mr. Ponti explained that they do not wish to harm Ms. Le's business in any way, but regardless where the orientation of

the proposed building faces (east or west), any building erected on the proposed site would affect Ms. Le's property since she would still lose some visibility.

The public hearing was closed.

Commissioner Krippner inquired why the applicant proposed a 22-foot width driveway instead of the required 30-foot; and a free standing pylon sign instead of a more upscale and modern monument sign. He also asked Mr. Ponti if he was willing to share costs with the adjacent business to put up a new facade to equal the distance with the adjacent business.

Mr. Ponti responded that he was willing to comply with staff condition to install a 30-foot driveway instead of a 22-foot driveway. Regarding the sign, Mr. Ponti stated that it will be a small pylon sign, 4' x 8', 12 feet high which the Code requires to have 8-foot height clearance instead of 6 feet as proposed. Mr. Ponti expressed his willingness, to a limited scope, to make concessions with the neighbor regarding the cost of the facade.

Commissioner Chow recommended that the applicant work with staff to comply with Code. Mr. Ponti stated that due to the limited size of the lot, there is little he can do with the project. He felt the project is more viable facing Cherry Street than switched to the other side facing east.

Commissioner Chow was concerned that the building's height of 21 feet would block the adjacent businesses' signs. Mr. Ponti responded that the building's setback is far enough for the signs to remain visible traveling westbound.

Because many issues in the project do not comply with Code, Mr. Christian Bettenhausen stated that a variance request was necessary.

Mr. Bashmakian corrected Mr. Ponti's statement, clarifying that staff did not support the orientation of the building because it did not comply with Code and not because of its location.

In response to Commissioner Krippner's question regarding the wrought iron fencing on the side and rear property lines, Mr. Ponti explained that the wrought iron fencing is easier to maintain (graffiti free), better looking and inviting as you see the operation of the business, and cost effective. However, Mr. Ponti, was acceptable to putting up a block wall extending 25 feet at the front and back of

the property before the wrought iron fencing as Commissioner Krippner had suggested.

Motion

Commissioner Cruz moved that the Planning Commission continue the application to allow the applicant to work with staff in complying with Code or apply for a variance. Commissioner Bertels seconded. The motion carried 5-0.

Mr. Bettenhausen suggested that the Commission assign a specific date for the next hearing. Then he suggested that the Commission deny the project so that the applicant can resubmit an application. Mr. Bashmakian pointed out that if the project is continued, it will provide an opportunity for the applicant to make the changes in compliance with Code or apply for a variance, and staff to do a public notice before the item comes back to the Commission. Chairman Turro concurred with Mr. Bashmakian. Notwithstanding, Mr. Bettenhausen insisted that the Commission either accept or deny the proposal so that the applicant will have the opportunity to appeal the denial. In order to resolve this matter, Mr. Bettenhausen asked the applicant if he was agreeable to continuing the project and to working with staff to comply with Code. Mr. Ponti did not object, and the Commission action remained.

- B. **Case 2006-73 Conditional Use Permit** Conditional Use Permit request to allow the sale of individual containers of beer at an existing 7-Eleven Market/ CITGO Gasoline Station, thereby amending the conditions of approval of the Conditional Use Permit C-1017-A, approved by the City of Westminster Planning Commission on October 10, 2001. The site is located at 15991 Magnolia Street (Assessor parcel #'s: 107-672-37 & 107-672-38).

STAFF RECOMMENDATION: That the Planning Commission approve Case Number 2006-73 (CUP) based on the findings and conditions as outlined in the proposed resolution.

Mr. Patterson made a brief presentation on the background on the applicant's request to sell individual containers of beer at the existing 7-Eleven Market. Based on staff's findings and analysis, the Commission received staff's recommendation to approve Case Number 2006-73 based on the findings and conditions listed in the draft resolution.

The public hearing was opened.

Speaking in favor was Mr. Paul Chuman, franchisee of 7-Eleven Market located at 15991 Magnolia Street. He owns 3 other stores and has been in business for 11 years with no Alcoholic Beverage

Control (ABC) or City violations. His family owns 13 other stores all with individual containers of beer and wine license. According to Mr. Chuman, the store serves approximately 1,820 customers daily and most of them want to consume only one beer. Chairman Turro asked if the applicant signed the Affidavit for Conditional Use Permit Application Related to Sale of Alcoholic Beverage form. Mr. Patterson responded that the form was faxed to the applicant but staff never received a signed copy back. Mr. Chuman stated that they never received the form, but he was willing to sign the form anytime.

Mr. Malvi Basi of 2330 Hartford Avenue, Fullerton, another 7-Eleven franchisee related to Mr. Chuman, stated that their 14 family-owned stores have a good ABC tract record. Mr. Basi indicated that they do not promote the sale of any illegal beers; they educate the community about the sale of beer and wine; they maintain their properties well; and they prohibit customers from hanging out and drinking within the store premises.

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

Based on the family's good tract record and compliance with law, Commissioner Chow recommended that the Commission approve the proposal with the conditions imposed by staff. She pointed out that she wants to provide the consumer the option to buy individual cans of beer.

On the other hand, Commissioner Krippner indicated that this is the first time he has ever heard a proposal to sell individual containers of beer, and considering the minimal cost difference between the single and multi-pack containers, he felt that sale of individual container beer should not be encouraged as drinking in cars or outside the stores are not allowed.

Commissioner Chow stated that a customer will drink anyway whether or not he purchases a single can or a 6-pack beer. She added that being able to buy individual containers does not mean that customers are being encouraged to drink in the parking lot.

Commissioner Krippner stated that Planning Commission should uphold Resolution 2001-28 which specifically prohibits selling individual cans of beer.

Chairman Turro expressed his disapproval against stores selling individual cans of beer adding that he will not allow approval (if the proposal is approved) unless the applicant signs the ABC affidavit

form. Mr. Bashmakian informed him that the form is available which the applicant can sign at this time.

Commissioner Krippner stated that he intends to vote against the proposal. Chairman Turro concurred.

Motion

Commissioner Krippner moved that the Planning Commission decline the request to sell individual containers of beer based on the previous Planning Commission Resolution 2001-28 which states, "No single-can sales of beer, 40 oz. or magnum beers shall be permitted", and the item should not be brought back to the Commission.

Mr. Bettenhausen advised it was unnecessary to reaffirm the prior resolution as it continues in existence. He pointed out, however, that if there were reasons to amend or modify any prior resolution, the Planning Commission could do so.

Commissioner Bertels seconded Commissioner Krippner's motion.

Commissioner Chow stressed the applicant's request would provide convenience to the consumer.

Mr. Bettenhausen suggested that Commissioner Chow has the choice to make a substitute motion. If the motion is seconded, the Commission would vote on it first.

Substitute Motion

Commissioner Chow moved that the Planning Commission approve Case Number 2006-73 based on the findings and conditions as outlined in the draft resolution. The substitute motion failed for lack of a second.

The motion proposed by Commissioner Krippner carried 4-1, Commissioner Chow dissented.

**New Business A. Case 2005-32 Substantial Conformance Review.** Substantial Conformance Review of a previously approved Site Plan and Design Review application for the development of a three-unit, two-story apartment house. The site location is at 7302 20<sup>th</sup> Street (Assessors Parcel Number: 096-064-09).

STAFF RECOMMENDATION: That the Planning Commission compare the proposed plans with the previously approved plans and determine if the revisions substantially conform to the previous approval.

Mr. Chris Wong stated that following Planning Commission approval of a two-story apartment house last November 2005, the applicant submitted a revised proposal which was different from the previously approved project. He described the design changes and based upon staff review, Mr. Wong requested that the Planning Commission determine if the revised project substantially conforms to the previously approved project. He informed the Commission that a representative of the project is available to answer any questions.

Commission Bertels commented that he recalled the Commission was concerned about the number of bathrooms in the units when the proposal was previously considered.

**Motion** Commissioner Chow moved that the Planning Commission determine that the proposed plans substantially conform to the previous approval. Chairman Turro seconded, and the motion carried 4-1, Commissioner Bertels dissented.

**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 reminded the Commission that its joint study session with the City Council to address large homes will be on the Council's agenda for its consideration in their next meeting scheduled on October 11, 2006.

**Follow up to Commissioner's** Mr. Bashmakian stated there was no specific item for follow-up at this time.

**City Attorney** None

**Planning Commissioner's Comments** Commissioner Bertels reported the following: 15771 Grey Oaks and 15771 Candlewood - illegal palm trees in the parkway; 15761 Candlewood – no permit visible in the construction site; 10331 Nottingham Parkway; 15060 Yorkshire Street - palms planted every four feet; and 9902 Woodsmere - business running a junk yard.

Chairman Turro reminded the Commission that the park dedication honoring the memory of former Mayor Pro Tem Russell Paris at Newland Park is scheduled on Tuesday, at 10 a.m.

**Reporting on  
AB 1234**            None

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

Respectfully submitted,

Maria Moya  
Department Secretary