

PLANNING COMMISSION
Minutes of Regular Meeting
Westminster Council Chambers
8200 Westminster Boulevard
Westminster, CA 92683
February 7, 2007
6:30 p.m.

- Call to Order** The Planning Commission of the City of Westminster met in a regular session on Wednesday, February 7, 2007 called to order in the Westminster Council Chambers, at 6:30 p.m. by Chairman Turro.
- Roll Call** Commissioners present: Chow, Contreras, Krippner, Lam, Turro
Commissioner absent: None
- Staff Attendance** Art Bashmakian, Planning Manager; Steve Ratkay, Associate Planner; 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 Krippner.
- Election of Chair and Vice Chair** The floor was opened to nominations for Chairman of the Planning Commission for 2007. Commissioner Krippner moved to nominate Commissioner Turro for Chairman, seconded by Commissioner Chow. There being no further nominations, the nominations for Chairman was closed. A voting was made and the Commission voted Commissioner Turro as Chairman, 5-0.
- The floor was opened to nominations for Vice-Chairman of the Planning Commission for 2007. Commissioner Lam nominated Commissioner Chow for Vice-Chairman, seconded by Commissioner Contreras. There being no further nominations, the nominations for Vice-Chairman was closed. A voting was made and the Commission voted Commissioner Chow as Vice-Chairman, 5-0.
- Approval of Minutes** The minutes of the regular meeting of January 17, 2007 were approved on motion of Commissioner Krippner, seconded by Chairman Turro, and carried 3-2, Commissioners Contreras and Lam abstained.
- Oral Communications** None

**Written
Communications**

Mr. Art Bashmakian indicated that the two letters related to Case 2006-103 (Public Hearing Item B) and provided to the Commission will be referenced when staff makes the presentation.

Public Hearing A. Case 2006-94 Conditional Use Permit. Location: 14541 Brookhurst Street #A3 (Assessor's Parcel Number 098-594-11) Caravan Seafood Restaurant. The project entails the request for an On-site General (Type 47) alcohol license to allow sale and consumption of alcohol beverages and entertainment in conjunction with a recently remodeled 6,000 square foot restaurant under new ownership and within an established commercial center.

STAFF RECOMMENDATION: That the Planning Commission approve Case No. 2006-94 based on the findings and conditions as outlined in the proposed resolution.

Mr. Art Bashmakian made a brief presentation on the background of the applicant's request to allow general alcohol service in conjunction with food service. Based on staff analysis and the Police Department's consideration of potential issues, staff made the findings to support Case No. 2006-94 based on the findings and conditions outlined in the proposed resolution.

No one spoke for or against the proposal and the public hearing was closed.

Based on Case No. 2006-94 materials, including the Police report submitted to the Commission, Commissioner Lam suggested continuing the proposed item to the next meeting of February 21 because he felt it was necessary that the applicant should be present in the public hearing. He indicated that he had several questions to ask the applicant concerning the Police Department's findings.

Commissioner Krippner disagreed stating that the applicant had the opportunity to be present in the hearing but chose not to attend. He indicated that a determination can be made based on the materials and facts submitted for consideration. Commissioner Krippner added that the proposal cannot be continued indefinitely until the applicant shows up.

Chairman Turro agreed with Commissioners Krippner and Lam. He indicated that since the applicant chose not to attend the public hearing, the Commission cannot continuously defer this item until the applicant decides to be present. On the other hand, Chairman

Turro stated that he had concerns and issues he would like to take up with the applicant, including the absence of the applicant's Affidavit for Conditional User Permit Application Related to Sale of Alcoholic Beverages. He wanted all his concerns to be resolved before he could make an intelligent decision.

Mr. Bettenhausen advised that a motion from the Commission is necessary to either continue or not continue the hearing.

In fairness to the applicant, Commissioner Chow concurred with Commissioner Lam to continue the item to the next public hearing date.

Commissioner Krippner mentioned that the Police Department report indicates moderate police calls for robbery, burglary, criminal threats and gang-related activities in the site and it would oppose any business that operates in a similar manner. He stated that although the census tract is allowed seven on-sale and four off-sale alcohol beverage (ABC) licenses, it has currently nine on-sale and four off-sale ABC licenses. If this proposal is approved, there would be over-saturation of ABC licenses in the tract. He stated he would move that the Commission either deny the proposal or deny the ABC license for a period of six months to one year and then check the number of police calls during that period. He stated that the Commission should acknowledge the fact that the City is oversaturated with liquor licenses in the particular area.

Motion

Commissioner Chow, seconded by Commissioner Lam, moved that the Commission continue Case No. 2006-94 to the next meeting of February 21, 2007 to allow the applicant to speak in the public hearing.

Substitute
Motion

Commissioner Krippner moved that the Commission deny Case No. 2006-94. Chairman Turro seconded for discussion.

Chairman Turro was not as worried about the over-saturation issue since the applicant is proposing to serve liquor with food. Commissioner Contreras pointed out that Commissioner Krippner mentioned "liquor store" but the proposal pertains to a restaurant. Commissioner Krippner clarified that he was referring to "liquor outlets".

Based on page 5, paragraph 3 of the staff report which indicated that the proposal was acceptable to staff and the Police Department, Commissioner Chow once again recommended continuance of the item to the next hearing.

The Commission voted on Commissioner Krippner's motion which failed 1-4, Commissioner Krippner voted yes to deny.

Chairman Turro expressed dissatisfaction towards the continuance of the project and stated that he would let the applicant know that. However, he stressed that he wants to provide a fair and honest opportunity to the applicant to present his project. He reiterated that he voted to continue the project because he had questions to ask the applicant to make an intelligent decision.

Commissioner Krippner commented that the City has already spent taxpayers' money on this proposal and that the Commission is responsible to these taxpayers whom he felt would not want another liquor store in an over-saturated area. Commissioner Lam disagreed explaining that the City does not lose money in continuing this item since the applicant has already paid for the application fees, and in fairness to the applicant, the Commission should allow him/her one more opportunity to be heard by the Commission so that it could decide appropriately.

Commissioner Chow's motion carried 4-1, Commissioner Krippner dissented.

- B. Case 2006-103 Site Plan Review and Design Review. Location: 15521 Beach Boulevard (Assessor's Parcel Number 142-042-88). In the existing parking lot of Pep Boys Auto Center. The applicant is proposing to install and operate a 288-square foot kiosk to be used for the sale of coffee and baked goods.

STAFF RECOMMENDATION: That the Planning Commission approve Case No 2006-103 based on the findings and conditions found in the proposed resolution.

Mr. Steve Ratkay described the proposal to install and operate a drive-through coffee shop in the parking area of a retail and auto parts/repair center. Based on its findings, staff recommended that the Planning Commission approve Case 2006-103 subject to the conditions included in the proposed resolution.

The public hearing was opened.

Speaking in favor was the applicant and co-owner of the proposal, Ms. Susan Cooper of 4865 Ironwood Avenue, Seal Beach. She indicated that this is their 12th year in the drive-through coffee business. She stated that this building was relocated from their

Seal Beach site due to the shopping center's renovation. In the last 12 years, Ms. Cooper informed the Commission that the business has grown steadily to six locations. She stated that her partner in the business and her corporate Fortune 100 background enabled them to build strong business core values based on ethics, excellent customer service, and top quality products. She added that the business' dedication to continuing education encourages their employees to get good grades and focus on their studies, while the business arrange their employees' schedules every semester, and support education through business donations. She thanked staff for its assistance.

In response to Commissioner Lam's question regarding sewer connection, Ms. Conner responded that their kiosk has adequate sewer hook-ups onsite.

Commission Chow thanked the applicant whom she called "friend of the community" for helping out students by working around their school schedule. She indicated this was the kind of business she wants in the City.

Another co-owner of the business, Ms. Debbie Edwards of 16161 Santa Barbara Lane, Huntington Beach, informed the Commission that they are building a bigger facility in Seal Beach which will have walk-ins, sit down, and drive-through services.

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

Commissioner Krippner was in favor of the development because he believed that the business is very well-run.

Chairman Turro liked the idea of hiring students. He acknowledged the two letters received that were in favor of the proposal. He stated that the operating hours of 5 a.m.-7 p.m. Monday through Friday and from 6 a.m.-7 p.m. Saturday and Sunday as stated on Page 5 Paragraph Seven of the draft resolution, should be reflected as requested by the applicant instead of 5 a.m.-7 p.m. daily as stated in the staff report.

Motion

Commissioner Krippner, seconded by Commissioner Lam, and carried 5-0, moved that the Commission approved Case No 2006-103 based on the findings and conditions found in the proposed resolution.

With regards to the operating hours, Commissioner Krippner wanted to amend his motion by revising Condition No. 7 to allow

the business to operate from 5 a.m. to 9 p.m. daily. Mr. Bashmakian explained that the operating hours in Condition No. 7 was provided so that the applicant can have more flexibility even though the applicant does not plan to operate longer than what has been proposed. However, Mr. Bashmakian stated that it is up to the Commission to expand or cut the hours of operation.

With the approval of the second, Commissioner Krippner amended his motion to include an amendment in Condition No. 7 reflecting the operating hours from 5 a.m. to 9 p.m. daily. The motion carried 5-0.

New Business A. Case 2006-76 Design Review Level 2. Location: 15496 Magnolia Avenue (Assessor's Parcel Number 143-061-06) The applicant is proposing a roof-mounted wireless communications facility placed behind a parapet wall and fully screened atop a two-story office building.

STAFF RECOMMENDATION: That the Planning Commission approve the design on Case No 2006-76 based on the findings and conditions included in the proposed resolution.

Mr. Ratkay stated that based on its findings, staff supports the request to establish and operate a wireless communications facility as it is consistent with the City's design standards manual.

The Commission allowed applicant, Royal Street Communications representative, Mr. Ryan Hammersmith of 15131 Triton Lane, Huntington Beach, to speak. He stated that their wireless facility fit nicely within the roof well and nothing will be visible. He added that this facility would give them the opportunity to provide wireless coverage for the community. He stated that they agree with all of staff's conditions.

Chairman Turro indicated that he was familiar with the building as he lives close to the proposed site. As long as the facility will be completely covered, he would approve it.

Commissioner Krippner commented that since he knew that the building owner Mr. Manh, operates and maintains his buildings well, he was convinced the proposal will not negatively impact the building as Mr. Manh would not allow it.

Motion

On motion of Chairman Turro, seconded by Commissioner Lam, and carried 5-0, the Commission approve the design on Case No

2006-76 based on the findings and conditions included in the proposed resolution.

- B. Code Interpretation on Patio Enclosures. Location: Citywide in R-1 zones. Code Interpretation regarding patio enclosures within rear setback in single-family (R-1) residential zone.

STAFF RECOMMENDATION: That the Planning Commission adopt a new policy that allows patio covers as defined by the Building Code to encroach 10 feet into the required 20-foot rear yard setback in R-1 zones by right

Mr. Bashmakian stated that staff had received requests to allow certain patio enclosures that are not habitable spaces and functions as an outdoor living area to be approved over the counter without being subject to the AA process. Because the Municipal Code does not have a specific definition for “patio enclosures”, staff had required an AA application for any “patio enclosures” that encroach within the 20-foot rear yard setback based on the City’s Land Use Ordinance. However, Mr. Bashmakian stated that in contrast to this, other sections in the Municipal Code state that patio enclosures can deviate from the 20 foot required rear yard setback by up to 10 feet provided at least 1,000 square feet of contiguous open space remains in the rear yard. In order to maintain consistency with the code, staff recommended that the Planning Commission adopt the new policy on patio enclosures based on the following reasons stated in the staff report.

Chairman Turro inquired if patio enclosures were the “same as” or “similar” with patio covers. Mr. Bettenhausen explained that although he did not have the chance to review the code interpretation, he confirmed that “same as” and “similar” are different. Commissioner Lam felt that this matter did not require legal interpretation. Similarly, Commissioner Chow pointed out that staff analysis was sufficient to make a determination without legal opinion.

Eventually, after continuing to review the code interpretation, Mr. Bettenhausen agreed that the most recent code adopted on “patio enclosures” would probably govern as it is more restrictive, more refined and more clarifying than the older statutes adopted. He felt that requiring an AA is the appropriate interpretation. However, he noted that it was up to the Commission to interpret the codes differently.

The Commission allowed Ms. Evonne Morton of 31621 Peppertree Bend, San Juan Capistrano, to speak. She concurred with staff recommendation. Ms. Morton stated that she has worked with the City since 1979 and represents ten different contractors that install this type of structure.

Motion Commissioner Lam moved that the Planning Commission adopt the new policy on patio enclosures as recommended by staff. Commissioner Krippner seconded and 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 Mr. Ratkay for his presentations. He asked the Commission if they were interested in attending the Planners Institute Conference in May so that registrations could be processed. Commissioners Krippner and Chow confirmed they will attend, Commissioner Lam will not attend, and Chairman Turro and Commissioner Contreras will decide later.

Follow up to Commissioners' Comments None

City Attorney None

Planning Commissioners' Comments Chairman Turro, Commissioners Chow and Krippner welcomed the two new Commissioners, Commissioners Contreras and Lam.

Commissioner Krippner commented he was glad to see Commissioner Lam accept a more modest position to help the City.

Reporting on AB 1234 None

Adjournment The meeting was adjourned at 8:17 p.m.

Respectfully submitted,

Maria Moya
Department Secretary