

PLANNING COMMISSION
Minutes of Regular Meeting
Westminster Council Chambers
8200 Westminster Boulevard
Westminster, CA 92683
May 24, 2007
6:30 p.m.

Call to Order The Planning Commission of the City of Westminster met in a regular session on Monday, May 24, 2007 called to order in the Westminster Council Chambers at 6:48 p.m. by Chairman Turro.

Roll Call Commissioners present: Chow, Lam, Turro
Commissioner absent: Contreras, Krippner

Staff Attendance Art Bashmakian, Planning Manager; Steve Ratkay, Associate Planner; Phil Bacerra and Chris Wong, Assistant Planners; Maria Moya, Department Secretary; Christian Bettenhausen, Deputy City Attorney; and Ron Weber, Police Department Detective

Salute to the Flag All persons present joined in the Salute to the Flag, conducted by Chairman Turro.

Approval of Minutes None

Oral Communications None

Written Communications None

Public Hearing A Case 2005-21 Tentative Parcel Map, Site Plan Review, Design Review. Location: 7001 Westminster Boulevard (Assessor's Parcel Numbers 096-081-07, 096-081-16, 096-081-17, 096-081-33, 096-081-35, 096-081-36, 096-081-37, 096-081-38) The applicant seeks approval to vacate a public alley, consolidate 11 lots and the vacated alley into a single 57,155 square foot parcel, and develop the site with a 14,411 square foot single story retail drug store building.

STAFF RECOMMENDATION: That the Planning Commission recommend that the City Council approve Case No 2005-21 subject to the conditions stated in the proposed resolution.

Mr. Art Bashmakian pointed out a correction in Item E of the agenda which should read Case “2007-14” instead of “2006-14”.

Commissioner Contreras arrived at 6:50 p.m.

Mr. Steve Ratkay indicated that this was the applicant’s request to consolidate eleven lots and a public alley into a single parcel to develop a retail drug store building. He provided a brief overview and analysis of the project, its location, zoning, site layout plan, and architectural design. He indicated that staff supports the request with the recommendation to City Council for its approval subject to the conditions listed in the draft resolution.

The public hearing was opened.

Representing the applicants, Mr. Tab Johnson of 23456 Madero Street, Mission Viejo and Mr. Jim Schuemaker of 520 S. Grand Avenue, Los Angeles from Rich Development Company indicated that they support staff’s recommendation and conditions and were available to answer any questions. The adjacent property owner east to the project site, Mr. David Dunham 5690 Mulberry Ridge Drive, Camarillo, stated that he was also representing another adjacent property owner to the north, Mr. Ray Motonaga. He thanked staff and stated that he and Mr. Motonaga both support the development.

Regarding the existing billboard adjacent to the street that will remain highly visible in the proposed center, Mr. Johnson confirmed with Chairman Turro that they have contacted the billboard owner who expressed no interest in any offer to remove it as he intends to keep the lease until 2011.

Commissioner Lam was supportive of the project as it will improve the property site which had been vacant for a long time. However, he felt the billboard remains an eyesore and hopes that the applicant will be able to negotiate with the billboard owner to remove the billboard. Chairman Turro concurred with Commissioner Lam.

Commissioners Chow and Contreras liked the project and were glad the vacant lot will be developed.

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

Motion

On motion of Commissioner Chow, seconded by Commissioner Lam, and carried 4-0-1, Commissioner Krippner absent, the Planning Commission recommended that the City Council approve Case No 2005-21 subject to the conditions stated in the proposed resolution.

- B. Case 2006-57 Site Plan Review and Design Review Location: 6491 Westminster Boulevard (Assessor's Parcel Number 203-562-17) The applicant proposes to develop a 3,741 square-foot, single-story commercial building with drive-thru on a 23,914 square-foot parcel in an existing retail shopping center.

STAFF RECOMMENDATION: That the Planning Commission approve Case No. 2006-57 subject to the conditions stated in the proposed resolution.

Mr. Chris Wong made a brief presentation on the applicant's request to develop a single-story commercial building with drive-thru in the existing Westminster Square retail shopping center. He mentioned that Condition No. 11 of the draft resolution has been revised and a copy has been provided to the Commission. Based on staff findings and analysis, Mr. Wong recommended that the Planning Commission approve Case No. 2006-57 subject to the conditions stated in the proposed resolution.

The public hearing was opened and speaking in favor of the proposal was the architect, Mr. John Parezo of 358 Clinton Street, Costa Mesa who thanked staff and indicated his support to staff recommendation and conditions. He was available to answer any questions.

Property owners Messrs. Steve and Mike Jacoby of 6471 Westminster Blvd. also spoke in favor. Addressing Condition No. 10, Mr. Steve Jacoby indicated that with Mr. Chun's consent, (the adjacent Parcel A property owner) they were ready to reconfigure the shared parking lot and work out their respective costs. If Mr. Chun does not consent, Mr. Jacoby stated that they would go side by side parking instead of a 90-degree angle parking as they would like to resolve the parking issue. He also requested clarification on the number of seating for his restaurants. Mr. Wong responded that they are allowed 12 seats or less for each small restaurant and 13 or more seats for the bigger restaurant. Mr. Jacoby stated that he will be maintaining two tenant spaces but not necessarily two tenants at all times. Lastly, Mr. Jacoby inquired if it was possible to extend the permit, if approved, to at least two years. Mr. Bashmakian responded that the permit is current for a year and the

applicant could come back for the Commission's approval to extend to six months to one year at the applicant's request.

To have more flexibility, Mr. Mike Jacoby requested an increase on the number of seating capacity for the smaller restaurants to a maximum of 20. Mr. Bashmakian explained that the Code determines the number of parking spaces required and available on the number of seating in the restaurant. If the number of seating is increased, the parking requirements will change. If this is the case, the applicant could apply for a variance.

Speaking in opposition were Ms. Jessica Chun and her father, Mr. Karl Chun of 23123 Calvert Street, Woodland Hills. Representing KNG Properties which owns Parcel A, Ms. Chun requested continuance of the hearing to allow them to review the proposal as they have never received a public notice and they learned about the proposal only yesterday. They expressed concern that the proposal will not meet other conditions of approval specifically the parking requirements which they believe will not be sufficient. As a result, Ms. Chun stated Parcels A and B will serve as relief for the parking overflow. Considering this parking concern, the requested variance, and because KNG Properties were not approached by Messrs. Jacoby regarding the reconfiguration of the parking lot which they are not consenting to, they opposed the proposal. However, Mr. Wong indicated that staff record shows that the public notice was sent to Mr. Chun and the address labels were verified correct, but for some unknown reason the Chuns did not receive it. Mr. Bashmakian further explained that an affidavit was signed by staff that stated notices were sent on due date and a photograph of the notice was taken on the property site fulfilling their responsibilities to duly notify the property owners.

Mr. Karl Chun concurred with his daughter.

Mr. Parezo clarified that the Jacobys were not requesting a variance and all the required parking are located in Parcel C only.

Mr. Steve Jacoby clarified that they were not the only owners of Parcels A and C properties, but there are some people involved in the shopping center property as well.

The public hearing was closed.

Mr. Steve Jacoby informed Commissioner Chow that they cannot guarantee that parking will not overflow to the other parcels. Based on his experience, Commissioner Lam stated that patrons usually

park closest to the location where they shop. Commissioner Chow felt it was necessary that the adjacent property owners agree on a mutual parking arrangement since it would be impossible to enforce patrons to park on designated parking areas only. Commissioner Contreras concurred with Commissioners Chow and Lam.

Motion

Commissioner Chow moved that the Planning Commission approve Case No. 2006-57 subject to the conditions stated in the proposed resolution including the revised Condition No. 11 in the draft resolution. The motion carried 4-0-1, Commissioner Krippner absent.

- C. Case 2007-03 Conditional Use Permit. Location: 9191 Bolsa Avenue, Suite 109-111 (Assessor's Parcel Number 098-303-04) Saigon Billiard Center. The proposal is for a Conditional Use Permit to allow the operation of a billiard center.

STAFF RECOMMENDATION: That the Planning Commission deny the conditional use permit based on the findings listed in the proposed resolution.

Mr. Phil Bacerra provided a brief presentation on the applicant's request to allow the operation of a billiard center that will occupy three tenant spaces that consisted of retail uses. He mentioned a letter of opposition was received from the tenants in the center and provided to the Commission. Based on staff's findings and review that the proposed use would negatively impact the neighboring properties, Mr. Bacerra recommended that the Planning Commission deny the proposal.

Detective Ron Weber of the Police Department indicated verification of police permits showed that the business does not have a current permit, and there was no other information about the business. Based on the hours requested, Detective Weber stated that the Police Department treated the proposal similar with any request for a regular pool hall as there was nothing to show otherwise. Likewise for staff, the application was treated as a conditional use permit application for billiard use.

The public hearing was opened.

Speaking in favor was Mr. Paul Roberts of 37 Acorn Ridge, Rancho Santa Margarita, who is former media director for the Billiard Congress of America, national organization for the sports of billiards. He explained that there are three types of billiard games, namely: pool or pocket, snooker, and carom. He indicated that this

is a request to play “carom”, a rare and elegant game dating back to the forefathers that requires artistry and a lot of concentration and it is of great significance to bring it back to the Vietnamese community. He introduced the owner, Mr. Thoi Dac Nguyen, a three-time carom champion in his native country, Vietnam, who is bringing his reputation and skills to the business. He stated that due to Mr. Nguyen’s limited language skill, Mr. Nguyen was not able to explain adequately the nature of the business. Mr. Roberts stated that because Mr. Nguyen has retired, there is no current application on record. However, due to so much pressure from his current students to teach carom and keep the sport alive, Mr. Nguyen is bringing carom back. He added that alcohol is not compatible with the sport and the sport appeals to older audience and a handful of younger people. Regarding noise and parking, Mr. Roberts stated they can be addressed by imposing additional conditions. Because the facility is within the center of the site the noise is confined only within that area. He suggested that the parking area for carom patrons be cordoned off or marked by cones. He stated that the facility will not take a lot of parking since carom is played only by two people at a time and a maximum of 20 people was realistic. In addition, there is security in the shopping center.

Commissioner Lam personally knows Mr. Nguyen and confirmed his good reputation. He stated that he likes and plays carom which is a different from the regular pool games. He was not as concerned about the noise factor. As an advocate against crime, Commissioner Lam was not as concerned with it since carom caters to older adults and not the younger people.

Mr. Nguyen confirmed with Commissioner Chow that he operated a carom facility at 9766 Garden Grove Boulevard for 20 years and closed in 2003.

Commissioner Contreras inquired why the facility needed to be opened until 2 a.m. Mr. Roberts responded it was for economic reasons as this was the only source of income for Mr. Nguyen.

Speaking for five other people present, Mr. Tung Nguyen of 14142 Deanann Place, stated he personally knows Mr. Nguyen. He and his friends who play billiard had asked Mr. Nguyen to teach them carom.

Applicant and project designer Mr. Frank Le of 14211 Riata Street stated that carom requires skill and concentration so that only classical and soft music is going to be played in the facility. There

will be no noise impact. He added that most of the players are skilled, serious, and professional. Their business target is middle and aged people.

Commissioner Lam noted that the tenants opposed the proposal signed due to the negative connotation of a "pool house", operating hours, security, and parking limitation. Commissioner Lam stated that parking could be addressed by using the north side parking area. Mr. Roberts clarified that both south and north parking areas are available, but suggested that a parking area exclusive to the business facility be marked by cones in the evening hours.

Mr. Roberts apologized for not contacting the tenants who opposed the proposal because Mr. Nguyen believed the public hearing was the appropriate time and place to talk about the proposal. Mr. Roberts suggested that the Commission could continue the case to allow them to inform the tenants.

Concerning the parking, Mr. Bacerra stated that staff is recommending denial as there could be potential congregation on the north parking area. If the Planning Commission decides to approve the proposal, staff is recommending an additional condition to cordon a specific area in the north area parking for carom patrons. Commissioner Contreras mentioned that he personally experienced difficulty in finding parking on the south side.

Detective Weber stated that Police Department's decision stands as the applicant's initial request was for a billiard center with no mention of a carom type pool and the Police Department treated it as such. He added that the applicant had every opportunity to provide all the details of this proposal to them, but this was the first time he heard about carom.

To avoid the future owners from changing the use of the land, Mr. Bettenhausen suggested that the Commission can approve the proposal to include a restriction that the permit is exclusively for playing carom and excluding billiard games such pocket pool. However, since staff is not familiar with carom, staff will not be able to determine the problems it could generate. Because of this concern, Detective Weber indicated it would be necessary for him to contact the Garden Grove Police Department for any available information about carom. If the item is continued, he stated that he will get the exact detail of a carom operation. Commissioner Chow stressed the importance of the providing all the information by the applicant to staff so that the Commission can make a rightful decision. Mr. Bettenhausen reiterated that the Commission can

continue its consideration of the matter. Mr. Roberts was not opposed to continuance or any conditions imposed by staff.

Once again, Commissioner Lam inquired why the tenants were not informed by the applicant about the nature of the proposed business. Ms. Christine Nguyen, co-owner of the business, informed the Commission that despite her efforts to inform the tenants door to door about the proposal, the tenants continued to regard the business as a regular billiard business.

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

Chairman Turro was favorable to the project but it should include all of Planning and Police staff's restrictions.

Relating to the hours of operation, Commissioner Lam suggested that operating hours end at 11 p.m. on week days and 12 a.m. on the weekends. Chairman Turro concurred.

Because of the concerns and issues that needed to be reviewed, Mr. Bettenhausen advised that the Commission could continue the matter to ensure that the use will not be detrimental to the community and to provide an opportunity for staff to review the proposal. Mr. Bashmakian advised that if the Commission decides to continue the proposal, it would be scheduled to the Planning Commission meeting of June 20.

Motion

Commissioner Chow moved that the Planning Commission continue Case 2007-03 the Planning Commission meeting of June 20, 2007 to allow the applicant an opportunity to work with Planning and Police staff regarding their proposal. Chairman Turro seconded and the motion carried 4-0-1, Commissioner Krippner absent.

- D. Case 2007-05 Conditional Use Permit. Location: 15380 Beach Boulevard (Assessor's Parcel Number 107-161-04). L8 Café & Lounge. 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 new 4,320 square foot restaurant in a presently vacant freestanding building located within an established retail center. Per Westminster's Municipal Code, any live entertainment in conjunction with a restaurant with or without the sale of alcoholic beverages is defined as a nightclub.

STAFF RECOMMENDATION: That the Planning Commission approve Case No. 2007-05 based on the findings and conditions as outlined in the proposed resolution.

Mr. Bashmakian made a brief presentation on the applicant's request for on-site alcohol license and entertainment in conjunction with a new restaurant. Based on its findings and analysis, Mr. Bashmakian indicated that staff is recommending approval of Case 2007-05 based on the findings and conditions outlined in the proposed resolution

The public hearing was opened and speaking in favor on behalf of the applicant was Mr. Bart Kasperowiz of 3509 South Ross, Santa Ana. He introduced the applicant, Mr. Son Quach, who moved to Westminster twelve years ago and who takes pride in the City of Westminster. He stated that the project will be a high class fine dining establishment providing piano and violin entertainment and valet parking and clarified that the project is neither a cafe nor a lounge. He was in complete agreement with the conditions but requested for extension of operating hours on Friday and Saturday to 1 a.m. due to the unique nature of the business. He stated that they were open to a probationary period wherein the Commission may modify or revoke their permit.

Mr. Bashmakian apologized that he had not mentioned in his presentation that the applicant had requested extending the hours of operation.

Mr. Bettenhausen advised Commissioner Lam to recuse himself since his business property is within 500 feet from the proposed site. Commissioner Lam left the dais.

Commissioner Chow believed there was no parking problem and appreciated this kind of high-end restaurant.

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

Chairman Turro expressed concern about serving alcohol for breakfast. He suggested that the business not serve alcohol until 11 a.m. However, Commissioner Chow was not concerned since the project is not located in an oversaturated area and alcohol will be served in a fine dining facility.

Detective Weber indicated that Police Department recommended 12 a.m. closing time similar to nearby Hof's Hut restaurant which also closes at 12 a.m. Detective Weber stated the proposal

presented as a “bar/cafe”, has been changed to a restaurant, and that was how the Police Department handled the proposal.

Mr. Bashmakian pointed a correction to Condition No. 6, changing 10 a.m. to 7 a.m.

Motion

Commission Chow moved that the Planning Commission approve Case No. 2007-05 based on the findings and conditions as outlined in the proposed resolution including the following revisions: additional condition to state that no alcohol will be served until 11 a.m. and shall end at 12 midnight daily; Condition No. 6, change 10 a.m. to 7 a.m.; and Condition No. 26, second sentence, to read, “No dancing performances.....”. Commissioner Contreras seconded and the motion carried 3-1-1, Commissioner Lam abstained and Commissioner Krippner absent.

Commissioner Lam returned to the dais. He requested staff to remind the Commission any future proposal within 500-feet to their business or property. Mr. Bettenhausen recommended that the Commission check with staff if they think they are within the 500-foot distance to the proposed site.

- E. Case 2006-14 Conditional Use Permit. Location: 15440 & 15442 Brookhurst Street (Assessor’s Parcel Number 108-553-25). Citryst Lounge. The application is for a Conditional Use Permit for on-sale beer and wine license (Type 41) to allow sale and consumption of beer and wine and to allow entertainment in conjunction with a proposed 3,136 square foot restaurant. Per Westminster’s Municipal Code, any live entertainment in conjunction with a restaurant with or without the sale of alcoholic beverages is defined as a nightclub.

STAFF RECOMMENDATION: That the Planning Commission deny the conditional use permit for the on-sale beer and wine license (type 41) and the karaoke entertainment based on the findings and conditions in the proposed resolution.

Mr. Bacerra made a brief presentation on the background of the applicant’s request for on-sale beer and wine license and karaoke entertainment. Due to over saturation of on-sale beer and wine license and the noise impact to the surrounding residential areas, Mr. Bacerra indicated that staff is recommending denial of the permit based on its findings listed in the resolution.

The public hearing was opened.

Applicant Ms. My-Dung Nguyen of 15440 and 15542 Brookhurst Street spoke in favor. She passed along a design rendering of her proposed restaurant to the Commissioners and staff. She thanked staff and stated that the community will be proud of the restaurant. She stated that she had invested approximately \$400,000 in the project. She stated that the business will not profit if alcohol is not served because patrons enjoy dinner with wine. She informed the Commission that she had professional experience operating Saigon Noodle House with ABC license problem free.

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

Chairman Turro had some reservations for the project because of the over saturation of ABC license in the project site.

On the other hand, Commissioner Lam was in favor of serving alcohol with food but opposed the live entertainment due to the noise impacts as the business was close to residential neighborhood. Commissioner Chow concurred.

Commissioner Contreras liked the design of the proposed restaurant and was supportive of Ms. Nguyen's project except for the entertainment request which he felt was not necessary. Ms. Nguyen tried to explain that the karaoke style entertainment is purely for customers' enjoyment and assured the Commission that music will be kept down at all times.

Chairman Turro advised the Commission to be very cautious when approving karaoke entertainment in restaurants as it might turn the restaurant into a night club. He intends to deny the project.

Motion Chairman Turro moved that the Planning Commission deny Case 2006-14 as recommended by staff. No one seconded and the motion failed.

Motion Commissioner Lam moved that the Planning Commission approve the conditional use permit for the on-sale beer and wine license (type 41) and deny the karaoke entertainment based on the findings and conditions in the proposed resolution. No one seconded and the motion failed.

Comparing the design rendering provided by Ms. Nguyen to the Commission, Detective Weber informed the Commission that the original plans they received from the applicant did not have a lounge. Detective Weber observed that since the time the applicant had proposed it project, the drawings have changed. He added

that there were changes to the application also. According to Detective Weber, the first request was for live entertainment only. The applicant returned with a request for karaoke, and finally changed the request to a live band and karaoke, which is not allowed.

Although he supports businesses, Commissioner Contreras wanted explanation on the specific plan because of different design renderings provided by the applicant. Commissioner Chow pointed out that the design was only a conceptual design and could change. She stressed that only when the business is ready to open can the Commission rely on the final drawings. However, Mr. Bashmakian stated that staff rely and base their decisions on the original plans submitted. Commissioner Contreras felt that instead of denying the project, he would rather have the applicant come back with the final plans.

Motion On motion of Chairman Turro, seconded by Commissioner Chow, and carried 3-1-1, Commissioner Lam dissented, Commissioner Krippner absent, the Planning Commission denied with prejudice the conditional use permit for the on-sale beer and wine license (type 41) and the karaoke entertainment based on the findings and conditions in the proposed resolution

Reports None

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

Items and Comments From the Planning Commission None

Comments: Planning Manager Mr. Bashmakian thanked staff for their presentation.

City Attorney None

Reporting on AB 1234 None

Adjournment The meeting was adjourned at 10:50 p.m. to the Planning Commission meeting of June 6, 2007.

Respectfully submitted,

MARIA MOYA
Department Secretary