



PLANNING COMMISSION
Minutes of the Regular Meeting
Westminster Council Chambers
8200 Westminster Boulevard
Westminster, CA 92683
May 20, 2009
6:30 p.m.

Call to Order The Planning Commission of the City of Westminster met in a regular session on Wednesday, May 20, 2009, called to order in the Westminster Council Chambers at 6:30 p.m. by Chairman Tran.

Roll Call Commissioners present: Bertels, Ho, Tran, Turro, Vo
Commissioner absent: None

Staff Attendance Art Bashmakian, Planning Manager; Steve Ratkay, Associate Planner; Alexis Schopp, Associate Planner; Chris Wong, Assistant Planner; Fenn Moun, Planning Technician; Maria Moya, Administrative Assistant; and Jeremy Rytky, Deputy City Attorney

Salute to the Flag All persons present joined in the Salute to the Flag, conducted by Commissioner Bertels.

Approval of Minutes Commissioner Turro noted that the minutes of the regular meeting of April 29, 2009 did not reflect some of his concerns regarding Case 2009-24 Zoning Text Amendment. Although he was not against artificial turfs, Commissioner Turro stated that he wanted to caution City Council to vote very carefully in adopting the ordinance because there are some artificial turfs that can be detrimental to health.

In the last meeting, Commissioner Turro stated that it was necessary to perform a research to review the pros and cons on the use of artificial turfs. He suggested that staff check with the City of Garden Grove which has investigated the matter for many months as he felt one month was too short. He stated that many homeowners would purchase the artificial turf rug from Home Depot and roll out it on their yards. Unless the artificial turf is installed professionally, he pointed out there were cases in south Orange County when people burn their feet as they walk on these turf. He stated that correct installation could cost approximately \$6,000 as the ground had to be dug up, and all other materials installed. He advised staff to get a list of reputable suppliers to recommend when

the ordinance is approved. He believes artificial turf is a good idea as residents in Garden Grove receive a \$200-\$300 rebate from the Orange County Water, but he stressed that it must not be harmful and dangerous.

On motion of Commissioner Bertels, seconded by Commissioner Vo, the minutes of the regular meeting of April 29, 2009 were approved 5-0.

**Oral
Communication**

Darrel Nolta, a Westminster resident, addressed the following:

(1) Based on the minutes of the regular meeting of April 15, 2009 on Case 2008-52, he disagreed particularly with Commissioner Vo's comments that the restaurant owner has no responsibility on the patrons' actions outside the restaurant. He stated that the Commission should be educated with the laws of California with regards to responsibilities of business owners who allow their patrons/customers to drink and drive, endangering many lives. He reminded the Commission that the owner of this particular restaurant plead guilty to "infraction" last April 9. Mr. Nolta, however, expressed his appreciation to Commissioners Turro and Bertels whom he believed tried to assert what is right. He also denounced City Council's action last May 13 to continue the public hearing on the same case.

(2) Regarding Case 2008-29 variance request, Mr. Nolta indicated that people continue to dump materials in the alley.

(3) He stated that taxpayers should not pay for the City's Moran redevelopment parking project.

In response, Commissioner Vo clarified that he never stated that the business owner can serve alcohol to a drunk. As an attorney and knowledgeable with the law, Commissioner Vo stated that the business owner is not responsible for its patrons' actions after leaving the restaurant. He added that there has been no violent occurrence in the project area and the business owner has already been prosecuted.

Chairman Tran commented that he recalled City Council overruled the Commission's action to deny the variance for Case 2008-29.

**Report from the
Secretary on Late
Communication
Items**

None

Public Hearing A. Case 2008-75 Site Plan, Tentative Parcel Map, and Variance
Location: 14072-14074 Ash Street (Assessor's Parcel Number 195-243-01)

An application filed for a site plan and tentative parcel map involving the conversion of two existing rental units (completed in April of 2008) to condominiums. Although no physical changes to the existing dwelling units or site layout are proposed, a variance is also required from the minimum distance between dwelling units on the same lot because the development does not currently conform to such standard.

STAFF RECOMMENDATION: That the Planning Commission approve the Site Plan, Tentative Parcel Map, and Variance.

Mr. Chris Wong provided a brief overview of the applicant's proposal to convert two existing rental units to condominiums. Based on staff analysis and findings, he recommended that the Planning Commission approve the Site Plan, Tentative Parcel Map, and Variance subject to conditions in the draft resolution.

The public hearing was opened and speaking in favor was the applicant, Mr. Cach Nguyen, civil engineer, of 53 Prairie Falcon, Aliso Viejo. Mr. Nguyen indicated that the project has been completed based on the City's permit to allow a 10-foot distance between the two units four years ago. He requested the Commission's support as Building and Planning Departments approved the site plan to convert the rental units into condo.

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

Motion

On motion of Chairman Tran, seconded by Commissioner Bertels, and carried 5-0, the Planning Commission approved Case 2008-75 Site Plan, Tentative Parcel Map, and Variance based on staff findings and analysis and subject to conditions listed in the draft resolution.

B. Case 2008-91 Conditional Use Permit
Location: 8900 Westminster Boulevard (Assessor's Parcel Number 097-311-08) (My Thuan Market)

An application filed for an amendment to an existing Conditional Use Permit to authorize the off-sale of beer, wine, and distilled spirits in conjunction with an established grocery market.

STAFF RECOMMENDATION: That the Planning Commission approve the Conditional Use Permit.

Mr. Fenn Moun presented Case 2008-91 wherein the applicant is requesting an amendment to the existing permit to allow issuance of ABC Type 21. Based on staff findings and analysis, Mr. Moun recommended that the Planning Commission approve the request based on the conditions listed in the staff report.

Mr. Art Bashmakian noted that while the memo from the Police Department recommends disapproval, its concerns were not directly related to the grocery market. Staff recommendation to approve was based on land use issues and Police understood staff's position.

The public hearing was opened.

On behalf of the applicant, consultant Mr. Stan Szeto of 879 W. Ashiya Road, Montebello, pointed out a correction on Page 1 paragraph 3 of the staff report, that Lucky's Supermarket, which opened in 1971, was granted a full liquor license and the business that took over did not dispense alcohol and went out of business in 2004. He further corrected that an ABC Type 20 license was issued to the grocery market instead of an ABC Type 21. He was in agreement and in compliance with all of staff conditions.

Mr. Darrel Nolta spoke in opposition stating he supports the Police Department's request for denial as he believes they have studied and reviewed the proposal very carefully. He expressed concern about potential drunk driving, traffic violations, and public safety.

In rebuttal, Mr. Szeto explained that the business is a big supermarket and not a small store since it offers a "one stop shop" convenience to its customers who are able to purchase beer and liquor with their groceries.

The public hearing was closed.

As concern for public safety and well being as Mr. Nolta, Commissioner Vo reiterated that the restaurant/business owner cannot be held responsible for its patrons' actions, specifically drunk driving, as each person is responsible for his own action. He expressed support for staff recommendation adding that only a block away, customers can get the same merchandise from Stater Brothers.

Although Commissioner Turro wanted a representative from the Police Department to clarify the violations that occurred in the project area, he felt the project proposed will not cause problems.

Chairman Tran stated that he supports staff recommendation since the tract is not saturated with ABC license and Police Department understands staff's reasons for recommending approval.

Commissioner Ho concurred with Chairman Tran.

Motion

On motion of Commissioner Vo, seconded by Commissioner Ho and carried 5-0, the Commission approved amendment to an existing Conditional Use Permit to authorize the off-sale of beer, wine, and distilled spirits in conjunction with an established grocery market subject to conditions in the draft resolution.

C. Case 2009-10 Conditional Use Permit

Location: 9743 Bolsa Avenue (Assessor's Parcel Number 098-453-13) (Le Royal Restaurant)

An application filed for a Conditional Use Permit to allow the issuance of a California Department of Alcoholic Beverage Control (ABC) Type 47 License for on-sale and consumption of distilled spirits in conjunction with an established 5,315-square foot banquet facility/restaurant.

STAFF RECOMMENDATION: That the Planning Commission approve the Conditional Use Permit.

Mr. Steve Ratkay provided a brief overview on the applicant's proposal to allow an ABC Type 47 license for on sale and consumption in a banquet facility/restaurant. Based on staff analysis and findings, he recommended that the Planning Commission approve the permit.

The public hearing was opened and speaking in favor was the applicant/architect, Mr. Jerry Yates of 3241 Kalin Avenue, Long Beach. He stated that he was the architect of the entire project and was available to answer any questions.

The restaurant owner, Ms. Elaine Nguyen, stated that they have operated the restaurant for almost two years. In order to provide good food and service in a nice, friendly atmosphere and to accommodate the customers' demands for distilled spirits during events, they were requesting approval. She was available to

answer any questions and confirmed they will comply with staff conditions including the closing time.

Mr. Darrell Nolta opposed the CUP request in principle. Although he wants the business to succeed, he indicated that he wants the business/restaurant owners to be concerned about the community and public safety.

No one spoke in rebuttal.

The public hearing was closed.

Having visited the restaurant a few times, Chairman Tran believed it is one of the best restaurants in the community providing fine food and excellent service. He added that most of the patrons are educated and professional people. In addition, three Police calls unrelated to alcohol since September 2007 was not unreasonable.

Motion

Commissioner Turro moved that the Planning Commission approve the Conditional Use Permit based on the conditions set forth by Planning and Police staff. Commissioner Bertels seconded and the motion carried 5-0.

Reports

A. Proposed Capital Improvement Projects for Fiscal Year 2009/2010

In accordance with the applicable provisions of the State Government Code, the Planning Commission is requested to review the proposed Capital Improvement Projects that are included in the 2009/10 proposed City budget and determine if the proposed projects are consistent with the City's General Plan.

Mr. Bashmakian indicated that staff had determined that the items included in the Capital Improvements Projects are consistent with the General Plan. He stated that Mr. Jake Ngo from the Engineering Division-Public Works Department is available to answer any questions.

Motion

Chairman Tran moved that the Planning Commission determine that the proposed projects are consistent with the City's General Plan. Commissioner Bertels seconded and the motion carried 5-0.

B. Case 2008-85 Design Review

Location: 5082 Westminster Boulevard (Assessor's Parcel Number 195-410-03)

An application for a Design Review, for the construction of a roof-mounted wireless communication facility to be screened within two faux chimneys.

STAFF RECOMMENDATION: That the Planning Commission approve the design as conditioned.

Ms. Alexis Schopp presented the description of the proposed construction of a roof-mounted wireless facility atop an existing multi-tenant building. Based on staff findings and analysis, she recommended that the Planning Commission approve Case No. 2008-85 Design Review subject to the conditions listed in the draft resolution.

No one spoke pertaining to the proposal.

Motion

On motion of Commissioner Bertels, seconded by Commissioner Vo, and carried 5-0, the Planning Commission approved Case No. 2008-85 Design Review subject to conditions in the draft resolution.

C. Case 2009-06 Design Review

Location: 14501 Magnolia Street (Assessor's Parcel Numbers 097-341-01 and 097-341-02)

Design Review to construct a 23-foot high pylon sign, with 96 square feet of sign area on a 1.92 acre site, developed with a 21,840 square foot single-story medical office building located at the southwest corner of Magnolia Street and Hazard Avenue.

STAFF RECOMMENDATION: That the Planning Commission determine a monument sign is appropriate for the site instead of the proposed 23-foot high pylon sign.

Since the applicant was not present, Mr. Art Bashmakian recommended that the Commission postpone this case to the next hearing to provide fair opportunity to the applicant in case the request is denied and the applicant appeals to the City Council.

Motion

Commissioner Bertels moved that the Planning Commission postpone Case 2009-06 to the next hearing as recommended by staff. Chairman Tran seconded and the motion carried 5-0.

Administrative Adjustments

None

**Items from the
Planning
Commission**

None

**Comments:
Planning
Commissioner**

Commissioner Turro mentioned that he is scheduled to take his yearly vacation from July 15 to July 19 and indicated that he was open to moving the second meeting of July to another date. Staff indicated it was up to the Commission to reschedule. However, no comments were received from the Commission except from Commissioner Bertels who preferred to keep the regular dates.

**Planning
Manager**

Mr. Bashmakian stated that parking permits were provided to the Commissioners so that they do not have to acquire permit passes when they come to City Hall.

City Attorney

None

**Reporting on
AB 1234**

None

Adjournment

The meeting was adjourned at 8:00 p.m. to the regular scheduled Planning Commission meeting on Wednesday June 3, 2009, at 6:30 p.m. in the Council Chambers Conference Room.

Respectfully submitted,

MARIA MOYA
Administrative Assistant