



**PLANNING COMMISSION**  
**Minutes of the Regular Meeting**  
**City Council Chambers**  
**8200 Westminster Boulevard**  
**Westminster, CA 92683**  
**September 15, 2010**  
**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, September 15, 2010, called to order in the City Council Chambers at 6:30 p.m. by Chairman Tran.
- Roll Call** Commissioners present: Bertels, Ho, Vo Tran, Turro,  
Commissioner absent: None
- Staff Attendance** Doug McIsaac, Community Development Director; Art Bashmakian, Planning Manager; Steve Ratkay, Associate Planner; Maria Moya, Administrative Assistant; and Christian Bettenhausen, Deputy City Attorney
- Salute to the Flag** All persons present joined in the Salute to the Flag, conducted by Commissioner Vo.
- Approval of Minutes** The minutes of the regular meeting of July 21, 2010 were approved on motion of Chairman Bertels, seconded by Commissioner Vo, and carried 5-0.
- Oral Communications** None
- Report from the Secretary on Late Communication** Mr. Bashmakian stated that a memo from the Police Department relating to Case 2010-43 was received by staff after the agenda was delivered. This memo will be discussed when the item is presented by Mr. Steve Ratkay and considered by the Commission during the Public Hearing.
- Ex Parte Communications** None
- Public Hearing A. Case 2010-43 Conditional Use Permit Amendment**  
**Location: 15380 Beach Boulevard (Assessor's Parcel Number 107-161-04)**

An application to amend a Conditional Use Permit (Case 2007-05, which permitted the on-site sale of alcoholic beverages and entertainment at a restaurant), by extending the hours of operation from midnight to 2 A.M. daily, extending the live entertainment from 11 P.M. to 2 A.M. daily, and operating as a nightclub (i.e. dancing, DJs, etc.) during the evening and early morning hours.

**STAFF RECOMMENDATION:** That the Planning Commission approve some of the requested amendments and deny others as stated in the staff report.

Mr. Bashmakian mentioned that Mr. Steve Ratkay will make the presentation and noted that representatives from the Police Department, Det. Tim Walker and Sgt. Michael Chapman, were present to answer any questions.

Mr. Steve Ratkay provided a brief overview of Case 2007-05 and the applicant's request to amend fourteen of its conditions specifically extending the hours of operation from midnight to 2 A.M. daily, extending the live entertainment from 11 P.M. to 2 A.M. daily, and operating as a nightclub (i.e. dancing, DJs, etc.) during the evening and early morning hours.

Mr. Ratkay discussed staff's recommended modifications to the applicant's requests, including the following two additional conditions (if draft resolution is approved): a six-month review by the Planning Commission would be required; and applicant shall provide surveillance equipment subject to the Police Department's review. He stated that Lt. Walker and Sgt. Chapman were available to answer any questions. Based on staff findings and analysis, Mr. Ratkay recommended approval of some of the requested amendments and denial of others as stated in the staff report.

Commissioner Bertels commented that staff should have prepared the revised conditions in a way where the Commissioners could easily compare the proposed changes in the conditions. He was concerned about the violations of the permit and felt that every proposed modification in the permit should be considered separately instead of lumping them into just one. As of this time, he expressed his strong opposition to the proposed modifications.

Commissioner Vo advised that this was not the appropriate time to express an opinion as the case has not been heard by the Commission. He added that it would be a waste of time to take the proposed modifications separately since he felt the Commission

would be able to resolve it altogether. Furthermore, Chairman Tran pointed out that the proposed changes were listed in the staff report.

The public hearing was opened.

Detective Tim Walker of the Police Department Special Investigation Unit was available to answer any questions. He confirmed that since April 2010, except for noise complaints, there had been no calls of violent crimes reported in the area. He added that the business is not in a high crime district.

Speaking in favor, Ms. Julie Nguyen of 15380 Beach Boulevard, sister of the owner, was grateful to staff for approving most of their requested modifications. However, she contended that to survive in this tough economy, it was essential that the Commission approve Conditions Nos. 6 and 7 per staff recommendation. She agreed with all the other conditions imposed by staff.

Likewise, the owner, Mr. Lam Nguyen of 15380 Beach Boulevard and his brother, Mr. Darwin Nguyen of 9466 Honeysuckle Avenue, Fountain Valley, were agreeable with staff conditions and appealed to the Commission for the approval of the extension of operating hours.

Chairman Tran advised the owner to remove their internet advertising including the happy hour and DJs as they are violations of the conditional use permit. Mr. Bashmakian indicated that the condition (Condition No. 34) relating to the happy hour was not requested to be modified by the applicant, but advised that the applicant could do so at this time. Therefore, Mr. Darwin Nguyen requested to amend Condition No. 34 to allow happy hour in the restaurant. Mr. Darwin Nguyen explained that although the internet is the best marketing tool for their business, they will comply with all the conditions.

No one spoke in opposition and the public hearing was closed

Commissioner Vo indicated that he had visited the restaurant a few times and had met with the business owner whose purpose is to provide a wholesome and fun environment for professionals to relax and unwind. He believed that the success of the business depends on its management. He stated that the violations (internet advertising, noise, DJs) were minor, pointing out that the owner has done a good job enforcing no smoking in the restaurant, closing on time, and monitoring clients for potential violation. He indicated that

he was in favor of the modifications and recommended that the Commission approve the conditions as amended by staff and the Police Department.

Chairman Tran concurred with Commissioner Vo adding that the applicant's request to extend the operating hour to one hour was reasonable. However, he asked the owner to tone down their music to avoid any complaints.

Although Commissioner Turro was sympathetic with the business owner going through the bad economy, he was concerned the city may be known as a "nightclub city". However, he had no objections to closing the business at 1 a.m. on Friday and Saturday.

Commissioner Ho felt that as a new owner, the applicant should be given another opportunity to operate the business per staff conditions and recommendations.

Commissioner Bertels commented that Condition No. 35 was ambiguous as to its enforcement and how often it will be enforced. Mr. Ratkay indicated that representatives from either the City or Police Department could duly enforce it. Commissioner Vo responded that the City enforces the condition when it is alerted of any violation, but it does not constantly review the business as it would put a lot of burden on the City and will be a waste of resources. Mr. Bashmakian further explained the system wherein if there are no issues with a business, the City assumes the business is complying with the permit. However, if a problem(s) and/or violation(s) occur, Code Enforcement reacts and enforces compliance.

Commissioner Ho stated that Condition No. 35 serves as a deterrent clause to keep the business a bona fide eating place and not converting it into a bar or nightclub.

Motion

Commissioner Vo, seconded by Chairman Tran, moved that the Planning Commission approve Case No. 2010-43 (Resolution No. 10-024) based on the conditions and amendments recommended by staff including the amendments recorded today and in addition, amending Condition No. 34 which allows the premises to offer drink specials at reduced pricing including happy hours. The motion carried 4-1, Commissioner Bertels dissented.

**Regular  
Business**

None

<b>Reports</b>	None
<b>Items from the Planning Commission</b>	None
<b>Comments: Planning Commissioners</b>	<p>Commissioner Bertels stated that he had received a number of calls regarding the trashy condition of Saigon City. He suggested that the Planning Commission meet with the center's operator and CVS at City Hall to resolve these problems.</p> <p>Commissioner Vo felt the meeting was unnecessary since these are code violations that should be addressed to the City's Code Enforcement.</p>
<b>Planning Manager</b>	<p>Mr. Bashmakian informed the Commission that Mr. Doug Mclsaac will make a brief presentation.</p> <p>In recognition for their service to the City as Planning Commissioners, Mr. Mclsaac presented One-Year Service pins to Commissioners Ho and Vo, and the Ten- and Fifteen-Year pins to Commissioner Bertels. As representatives of the community, Mr. Mclsaac expressed his appreciation to the Commission for volunteering their time and serving in the Commission.</p>
<b>City Attorney</b>	None
<b>Reporting on AB 1234</b>	None
<b>Adjournment</b>	The meeting was adjourned at 7:45 p.m. to the Planning Commission meeting on Wednesday, October 6, at 6:30 p.m. in the Council Chambers.

Respectfully submitted,

MARIA MOYA  
Administrative Assistant