



PLANNING COMMISSION
Minutes of the Regular Meeting
City Council Chambers
8200 Westminster Boulevard
Westminster, CA 92683
March 16, 2011
6:30 p.m.

- Call to Order** The Planning Commission of the City of Westminster met in a regular session on Wednesday, March 16, 2011, called to order in the City Council Chambers at 6:30 p.m. by Chairman Vo.
- Roll Call** Commissioners present: Bertels, Vo, Turro
Commissioner absent: Ho, Oh
- Staff Attendance** Art Bashmakian, Planning Manager; and Maria Moya, Administrative Assistant
- Salute to the Flag** All persons present joined in the Salute to the Flag, conducted by Chairman Vo.

Commissioner Ho arrived at 6:31 p.m.
- Approval of Minutes** The minutes of the regular meeting of March 2, 2011 were approved on motion of Commissioner Bertels, seconded by Chairman Vo, and carried 4-0, Commissioner Oh absent.
- Oral Communications** None
- Report from the Secretary on Late Communications Items** None
- Ex Parte Communication** None
- Public Hearing A.** **Case 2010-13 Conditional Use Permit**
Location: 8052 Westminster Boulevard
(Assessor's Parcel Number 097-071-42)
Walgreens

An application for a conditional use permit to allow sales of beer and wine for off-site consumption at an existing drug store/pharmacy.

STAFF RECOMMENDATION: That the Planning Commission approve the request for a conditional use permit to allow sales of beer and wine for off-site consumption, subject to conditions of approval.

Mr. Art Bashmakian made a brief overview of the proposed conditional use permit to allow sales of beer and wine for off-site consumption. Based on staff analysis and conditions, he recommended that the Planning Commission approve the request for a conditional use permit subject to conditions of approval.

The public hearing was opened.

Representing Walgreens, Ms. Jennifer Chavez of 600 W. Broadway, Ste. 2600, San Diego, stated that the sale for off-site consumption of beer and wine will meet their customers' strong demand for a one-stop-for-all shopping needs. She indicated that selling beer and wine will make Walgreens competitive with Rite Aide, CVS, Walmart and similar stores. She contended that Walgreens will manage the alcoholic beverage sale in a safe and responsible manner; will conduct comprehensive training, billing, and annual tests to those who operate the cash register; automatic cash register that prompts for checking identification will be installed; security cameras will be installed; display of beer and wine will be within cash register site and located deep in the center of the sales area so that it is not easy to grab; and beer will be sold not in single items but only in packs, while wine will still be sold as single bottles. Lastly, she mentioned that the two Walgreens store managers are present and available to answer any questions.

Speaking in opposition, attorney Mr. Stephen J. Chonoles of 6101 Ball Road, No. 302, Cypress, spoke on behalf of Mr. Adel Makar (he sent a letter of opposition to Case 2010-78), owner of Al's Market 3, located at 7062 Westminster Blvd. He stated that the proposal should be denied as it is detrimental to public health, safety, and welfare. Due to the project site's close proximity to churches and schools and is within a high crime area, Mr. Chonoles cited a California Supreme Court ruling justifying denial of the application. He stressed that convenience is not the test but whether or not the proposal would be detrimental to public health, safety, and welfare. Related to this, Chairman Vo remarked that the Walmart store which is only a mile away from the project site also sells alcohol. Mr. Chonoles explained the fact that Walmart and other stores within the area are allowed to sell alcohol does not mean additional stores should be allowed to over saturate the area without consideration of other social factors.

Commissioner Ho stated that the project area is under saturated based on the California Department of Alcohol and Beverage Control (ABC). Mr. Chonoles responded that based on Mr. Makar's information, the project area is oversaturated since it includes restaurants aside from stores and supermarkets. Mr. Bashmakian clarified that ABC differentiates sale of alcohol for off-site and on-site consumption, and the proposal is considered an off-site sale. Although there is only 3 liquor stores in the project area (under saturated), it is considered oversaturated because the project site is in a high crime district. In this case, Mr. Bashmakian stated that additional finding of public convenience or necessity is required, and staff has made those findings. However, Mr. Chonoles pointed out that the base standard should be public health, safety, and welfare instead of public convenience or necessity.

In rebuttal, Ms. Chavez indicated that the Police Department has reviewed the proposal and concluded that there was no cause of concern despite the high crime and over saturation issues. She reiterated that Walgreens have policies and procedures in place to ensure that the sale of alcohol is done in a responsible way. She added that the alcohol sale is only a small incidental product offering of Walgreens to serve public convenience since other similar stores such as Rite Aide, Walmart, and Target provide the same service. Ms. Chavez stated that their proposal complies with ABC requirement to maintain a distance of at least 600 feet away from churches and schools.

Miss Chavez confirmed with Commissioner Turro that there will be no alcohol drive-thru and that alcohol will be sold during the store's operating hours of 6 a.m. – 2 a.m.

The public hearing was closed.

Commissioner Turro was opposed to selling alcohol as early as 6 a.m. and as late as 2 a.m. since he felt crimes usually take place in the early morning hours. Chairman Vo commented that even if the hours were limited, it would not prohibit the customers from buying liquor in nearby stores such as Mr. Makar's nearby liquor store since it operates the same hours as Walgreens.

Commissioner Ho stated that Walgreens should be allowed to sell alcohol since the Police Department did not have any negative comments or concern. She supported Walgreen's operating hours, and added that if there were any problems, this item could be called up for review.

Chairman Vo concurred with Commissioner Ho. He believed that the opposition was based more on a business competition issue than a safety issue.

Motion

Chairman Vo moved that the Planning Commission approve the request for a conditional use permit to allow sales of beer and wine for off-site consumption, subject to conditions of approval and recommendations and findings of staff for Case 2010-13 (Resolution No. 11-010). Commissioner Bertels seconded and the motion carried 4-0, Commissioner Oh absent.

B. Case 2010-78 Conditional Use Permit
Location: 7001 Westminster Boulevard
(Assessor's Parcel Number 096-081-07)
Walgreens

An application for a conditional use permit to allow sales of beer and wine for off-site consumption at an existing drug store/pharmacy.

STAFF RECOMMENDATION: That the Planning Commission approve the request for a conditional use permit to allow sales of beer and wine for off-site consumption, subject to conditions of approval.

Mr. Bashmakian noted that this request is similar to the previous item, Case 2010-13. The only difference was the store's operating hours of 8 a.m. – 10 p.m., the same hours the applicant is proposing to sell beer and wine. He mentioned that a letter of opposition was received from the owner of nearby Al's Market 3 liquor store, Mr. Adel Makar. Mr. Bashmakian noted that staff analysis and findings are the same as in Case 2010-13 and there were no issues of concern from staff and the Police Department. Based on staff analysis and findings, Mr. Bashmakian recommended that the Planning Commission approve the request for a conditional use permit to allow sales of beer and wine for off-site consumption, subject to conditions of approval.

The public hearing was opened and speaking in favor was Ms. Chavez who reiterated her previous statements.

Speaking in opposition to Cases 2010-13 and 2010-78 was Mr. Adel Makar, owner of A's Store 3, at 7062 Westminster Blvd. He pleaded with the Commission to limit the off-site sale of alcohol as he felt that there are too many liquor stores already in the area, and asked for fairness to the public as he believed that additional stores selling alcohol will cause community problems. He contended that there is no necessity or public convenience because Walgreens is a pharmacy store and should not be allowed to sell alcohol. He pointed out that the Planning Commission should make it harder for the public to buy alcohol.

In rebuttal, Ms. Chavez explained that the entitlement process to sell beer and wine requires findings and analysis of the adverse impacts of the request. Staff findings show no evidence that Walgreens selling alcohol will be harmful. She indicated that Walgreens has standards and policies in place to make sure that alcoholic beverage are sold responsibly and safely.

The public hearing was closed.

Chairman Vo commented that Walgreens is not only a pharmacy but a convenience store since it sells almost anything. He felt that Mr. Makar's concerns are mere assumptions and have no basis. He stated that he was in favor of request.

Commissioner Turro had no problem with the request.

Based on staff and Police Department's findings, Commissioner Ho was supportive of the request. She indicated that this is a small convenience offered by Walgreens to its customers. Chairman Vo concurred with Commissioner Ho and added that if there were any adverse effects to the community, it can be called up for review.

Motion

Chairman Vo moved that the Planning Commission approve the request for a conditional use permit to allow sales of beer and wine for off-site consumption for Case 2010-78 (Resolution No. 11-011), subject to conditions of approval. Commissioner Bertels seconded and the motion carried 4-0, Commissioner Oh absent.

Regular Business

None

Reports

None

Administrative Use Permits And Adjustments

Case 2011-03 Administrative Use Permit
Location: 13372 Goldenwest Street, #201-203 (Assessor's Parcel Number 096-425-01) Evon Beauty Skincare Clinic

A request to allow a vocational school for permanent make-up which is proposed to be in conjunction with and incidental to a hair, nail, and skincare salon.

Request approved. Appeal period ends 3/24/2011.

Mr. Bashmakian stated this is an opportunity for the Planning Commission and City Council to appeal staff's decision related to Case 2011-03.

Motion On motion of Commissioner Bertels seconded by Chairman Vo, and carried 4-0 (Commissioner Oh absent), the Planning Commission moved to accept and file this request.

Items from the Planning Commission None

Comments: Planning Commissioners None

Planning Manager None

City Attorney None

Reporting on AB 1234 None

Adjournment The meeting was adjourned at 7:16 p.m. to the Planning Commission meeting on Wednesday, April 6, 2011, at 6:30 p.m. in the Council Chambers.

Respectfully submitted,

MARIA MOYA
Administrative Assistant