



**PLANNING COMMISSION  
Minutes of the Regular Meeting  
Council Chambers  
8200 Westminster Boulevard  
Westminster, CA 92683  
May 3, 2017  
6:30 p.m.**

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**1. PLANNING COMMISSION ROLL CALL:**

**BUI, MANZO, A.NGUYEN, Q.NGUYEN, AND RICE**

PRESENT: BUI, MANZO, Q.NGUYEN

ABSENT: A.NGUYEN, RICE

**STAFF PRESENT:**

Steven Ratkay, Acting Planning Manager; Christina Michaelis, Assistant Planner; Soroosh Rahbari, Community Development Director; Tarquin Preziosi, Deputy City Attorney; Shelley Dolney, Administrative Assistant.

**2. SALUTE TO FLAG:**

Acting Planning Manager Steven Ratkay led the salute to the flag.

**3. REPORT FROM PLANNING SECRETARY ON LATE COMMUNICATION ITEMS**

Acting Planning Manager Steven Ratkay reported there were four late communication items pertaining to 8.2 on the agenda.

**4. EX PARTE COMMUNICATIONS**

Commissioner Bui reported visiting the location for both items on the agenda.

**5. SPECIAL PRESENTATIONS - None**

**6. ORAL COMMUNICATIONS**

Mark Peterson, Westminster Resident, referred to a project previously brought before the Planning Commission (14800 Beach Boulevard – Supportive Housing Project), he opined there was a better use for the location offering that we might use the sight for a national monument to commemorate the Mendez Trail. He showed samples of pictures depicting similar sites and small lot monuments. He concluded that the site where Colonial Carpet used to be located on Hoover and

Garden Grove Boulevard might be a better location for the supportive housing project.

## 7. APPROVAL OF MINUTES – April 19, 2017

**Motion:** It was moved by Commissioner Bui, and seconded by Commissioner Q.Nguyen, to approve the Planning Commission meeting minutes of April 19, 2017, as presented. The motion carried (3-0) with the following vote:

AYES: BUI, MANZO, Q.NGUYEN  
NOES: NONE  
ABSENT: A. NGUYEN, RICE  
ABSTAIN: NONE

## 8. PUBLIC HEARINGS

### 8.1 Case No. 2016-58 – Continued from 4/5/2017 Planning Commission Meeting; and, a deferral is requested until June 7, 2017.

(Two Conditional Use Permits and a Variance for a reduction of required parking spaces)

**Location:** 14190 Beach Boulevard (APN # 097-080-36)

Viet My Magazine & Newspaper Venue

**Applicant:** David Vo

A request to defer the matter until June 7, 2017.

The proposed project involves two (2) Conditional Use Permits (CUP); 1) to operate a venue for entertainment (i.e. wedding banquets, concerts, dancing, marketing, and assembly uses), and 2) to serve on-site consumption of alcoholic beverages; and a Variance (V) to have reduced number of parking spaces for the proposed uses.

**CEQA COMPLIANCE:** The proposed matter is exempt from CEQA pursuant to Class 1; Section 15301 pertaining to issuance of conditional use permits involving negligible expansion of an existing use.

**RECOMMENDATION:** That the Planning Commission grant the applicant's request to defer the item to a future Planning Commission meeting.

**Motion:** It was moved by Commissioner Bui, and seconded by Commissioner Q. Nguyen, to defer the item to the June 7, 2017 Planning Commission Meeting. The motion carried (3-0) with the following vote:

AYES: BUI, MANZO, Q.NGUYEN  
NOES: NONE  
ABSENT: A. NGUYEN, RICE  
ABSTAIN: NONE

Acting Planning Manager Steven Ratkay added to the record that any public wishing to speak on item 8.1, Case No. 2016-58, it has been deferred to June 7<sup>th</sup> and that is when to return and participate in the public hearing process.

**8.2 Case No. 2016-48 (Variance and Reasonable Accommodation)**

**Location:** 5191 Vallecito Avenue (APN # 203-022-09)

**Applicant:** Lee Oliver

Reconsideration of a variance request to maintain a two-car garage, whereas the Westminster Municipal Code (WMC) requires three garage spaces for a single-family dwelling with five or more bedrooms and a Reasonable Accommodation, in the form of the proposed variance request. Federal and State housing law requires cities to consider waving development standards in order to accommodate the needs of a disabled individual.

CEQA COMPLIANCE: The proposed matter is exempt from CEQA pursuant to Section 15301 (Existing Facilities) Class 1 which consists of the minor alterations of existing structures and negligible changes to existing uses, such as the proposed parking variance associated with the interior changes to an existing residential care facility for the elderly.

RECOMMENDATION: That the Planning Commission:

- 1) Adopt a resolution approving the variance, subject to the recommended conditions of approval; and,
- 2) Evaluate the Reasonable Accommodations request and determine if a Reasonable Accommodation should be granted.

Acting Planning Manager Steven Ratkay provided a presentation to the Commission.

Discussion ensued about the state licensing of the facility, examples of reasonable accommodation requests, and necessity for parking by residents of the facility.

CHAIR MANZO OPENED THE PUBLIC HEARING AND ASKED THOSE IN FAVOR TO SPEAK

Lee Oliver, owner of the home at 5191 Vallecito and project applicant, stated the nearby cities of Seal Beach, Huntington Beach, Fountain Valley, Costa Mesa, and Newport Beach don't require eldercare home providers to build unnecessary three car garages for people who don't drive. He felt the neighbors were discriminating against the eldercare home and stated he agreed to sign a condition to abide by the three car garage ordinance if the home is to be used for any other purpose. He displayed several photos of parking evidence on Vallecito. He concluded that the

elderly enjoy privacy as much as anyone else and it was fundamental for a quality of life.

Commissioner Bui inquired about the number of employees at the facility and where they parked their vehicles. Mr. Oliver responded that there is usually one to two employees and they park in front of the home, on the street; adding, that leaves the driveway open for the client family visits, the site administrator, and health care professionals that visit the home. He added that the State of California requires that the home is treated like any other home and therefore can't be given parking restrictions or be required to have his employees park in the driveway.

Commissioner Q. Nguyen asked about the criteria used to determine if people can reside at the facility. Mr. Oliver responded that the resident must be disabled or minimum of 60 years old as required by the State.

Discussion ensued about the time of licensing the facility and when the additional bedrooms were added. Mr. Oliver stated he knew the neighbors would not accept the changes, so instead of delaying his business, he made the decision to move forward with the permitted addition and then he made an unpermitted dividing wall after the addition was installed.

Further discussion ensued about the number of rooms at the home and if a request for a private room from a resident qualified for a reasonable accommodation. Chair Manzo stated that it would seem a reasonable accommodation would be something like a larger hallway space or something of a necessity. Mr. Oliver stated the reason for the private bedrooms was to improve the quality of life for the residents and their need for privacy.

Chair Manzo asked if there was potential for the facility to house additional clients by doubling up the rooms that are currently private. Mr. Oliver stated that the limit of six residents at the care facility is regulated by the State. Deputy City Attorney Tarquin Preziosi confirmed that six residents or less would be regulated by the Department of Social Services and above six residents would trigger compliance with the permitting requirements of the local Zoning Code.

Mark Peterson, Westminster resident, stated he was neither for nor against the project, he felt there was adequate parking on site. He believed that if the garage is used there is adequate parking for five to six cars on site.

#### CHAIR MANZO ASKED THOSE IN OPPOSITION TO SPEAK

Patricia Adams, Westminster resident, speaking on her own behalf and on behalf of Ruth Piker, a neighbor. She read into the record a letter written by Ms. Piker, who noted that she didn't feel that Mr. Oliver met the criteria to request a reasonable accommodation. Ms. Adams stated she has already provided a letter to the Commission for consideration, she wished to conclude that nothing can ameliorate a

person's age or a disability, not even private rooms. She added that most elderly housing in the country is all shared accommodations. She felt that approving the variance would favor Mr. Oliver and she urged the Planning Commission deny the variance. Ms. Adams provided both written statements to the clerk for the record.

Robert Young, Westminster resident, stated the applicant is a businessman who decided to go around the building codes and make the addition into a six bedroom home under false pretenses. He commented that pictures provided by the applicant were deceptive, stating they were taken on trash day and street sweeping day where there would be less cars on the street; adding that the neighborhood elementary school added a lot of traffic. He concluded he had no problem with the facility, but is opposed to the illegal conversion and the request for a variance. He urged the Planning Commission to follow their own rules and deny the variance.

Charles Ponti, Westminster resident, stated he is familiar with the City codes and the work required by the City and residents establishing the codes. He felt the applicant circumvented requirements by applying for a permitted addition knowing that he planned on making the addition two bedrooms at a later date. He concluded that the owner caused this problem, he should have to follow the codes, and he urged the Planning Commission to deny the request for a variance.

Joseph Bantle, Westminster resident, commented that he is a general contractor and had to abide by the rules of the Planning Department sometimes losing jobs because of the rules. He felt that the applicant has circumvented the rules and should have to abide by the rules. He commented that the traffic along Vallecito is horrible due to the proximity of Eastwood Elementary School. He urged for denial of the variance.

Mitch Evans, Westminster resident, stated he had personal knowledge of the construction since he spoke to the contractors during the building process. He stated the contractors told him that the workers already knew that the wall was going to be put up and the office was going to be made into a closet; adding those changes were not shown on the blueprints. Due to the information he received from the contractors doing the work, he felt Mr. Oliver deliberately tried to usurp building and zoning codes.

#### CHAIR MANZO ASKED THOSE IN FAVOR TO SPEAK IN REBUTTAL

Lee Oliver, owner of the home at 5191 Vallecito and project applicant, stated that the pictures he provided were taken on two separate days and so the trash day was not a factor in the photos he submitted and the street is rather empty on both days. He admitted that he waited to put in the partition until after everything was permitted and the reason he did it is because the Ordinance is not right when it comes to elder care homes. He listed several local cities and the total amount of elder care homes within those cities: Huntington Beach-54, Fountain Valley-39, Costa Mesa-33, Garden Grove-35, and in Westminster-7. He stated the parking at the site is

irrelevant due to the fact that he can have six people living in the home as a four bedroom house and the issue is really the quality of life of his residents. He concluded that he circumvented the Ordinance, but he did it for a good reason.

Commissioner Q. Nguyen and Commissioner Bui inquired what the garage is being used for and if it was possible to use for parking. Mr. Oliver stated that it is being used primarily for storage but it is also used for periodic parking of a vehicle. He added that if the home was a four bedroom house, he could have six clients there and the City would not be able to regulate the facility or require him to use the garage.

THERE BEING NO FURTHER SPEAKERS, CHAIR MANZO CLOSED THE PUBLIC HEARING

Chair Manzo commented that he had a problem with anyone that circumvents the codes as they are in place for protection. He added that he felt there was no necessity for the additional bedrooms stating that his mother-in-law lived in shared room facilities; adding that he felt that the addition of the rooms was for the homeowner to make a profit. He stated that he did not see the necessity for a reasonable accommodation for private rooms. He asked the Deputy City Attorney to explain if the reasonable accommodation is justified by a resident of the facility asking for a private room.

Deputy City Attorney Tarquin Preziosi stated the legal test is if the applicant can establish a necessity for the accommodation. And the necessity means, under the Federal Fair Housing Act, that the accommodation is necessary to ameliorate the effects of the disability. He added that old age is not considered a disability under the Federal Fair Housing Act or the Americans with Disability Act. If the resident is disabled for some other reason, the issue would be if having one's own bedroom would ameliorate the effects of the disability.

In response to Commissioner Bui's question about similar cases for residential parking variances. Acting Planning Manager Steve Ratkay stated he cannot think of any parking variances for single family homes within the past decade; adding the current requirement became part of the Westminster Municipal Code in 1995, so with the prior Code you may have as many bedrooms as you wanted and it was completely legal at the time.

Chair Manzo stated that he would like to accommodate the request for variance, but he is also responsible to protect the City. He added that building codes protect the homeowners, future homeowners, neighbors and people's safety. He stated that they have an opportunity to control the situation with the garage variance request and Code requirements. And, he felt that six bedrooms required a three car garage or it could have the existing four bedrooms. Additionally, he stated regarding evaluation of the reasonable accommodation request, he didn't feel it was necessary

to have a private room. He stated that he planned to make a motion to deny the variance and didn't see the reason for the reasonable accommodation.

**Motion: It was moved by Chair Manzo, and seconded by Commissioner Bui, to deny the variance request for Case No. 2016-58. The motion carried (3-0) with the following vote:**

AYES: BUI, MANZO, Q.NGUYEN  
NOES: NONE  
ABSENT: A.NGUYEN, RICE  
ABSTAIN: NONE

**Motion: It was moved by Chair Manzo, and seconded by Commissioner Bui, to deny the reasonable accommodation request for Case No. 2016-48, as the necessity for a reasonable accommodation was not established. The motion carried (3-0) with the following vote:**

AYES: BUI, MANZO, Q.NGUYEN  
NOES: NONE  
ABSENT: A.NGUYEN, RICE  
ABSTAIN: NONE

**9. REGULAR BUSINESS - None**

**10. REPORTS – None**

**11. MATTERS FROM THE PLANNING COMMISSION - None**

**11.1 AB 1234 REPORTS - None**

**11.2 MATTERS FROM STAFF**

Acting Planning Manager Steven Ratkay shared the items scheduled to come before Commission, stating that there will be a proposed condominium project returning on May 17<sup>th</sup> and the Viet My Magazine project is returning on June 7<sup>th</sup>.

**12. ADJOURNMENT – The meeting was adjourned at 8:15 p.m. to a regular meeting on Wednesday, May 17, 2017 at 6:30 p.m. in the City Council Chambers.**

  
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Carlos Manzo  
Chairman



Steven Ratkay  
Planning Commission Secretary

Prepared by:



Shelley Dolney  
Administrative Assistant