



**PLANNING COMMISSION
Minutes of the Regular Meeting
Teleconference/Web Conference Only
8200 Westminster Boulevard
Westminster, CA 92683
October 20, 2021
6:30 p.m.**

**SPECIAL NOTICE REGARDING CORONAVIRUS (COVID-19) AND
ATTENDANCE AT PUBLIC MEETINGS**

On March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On September 17, 2021, Governor Newsom signed AB 361 related to the Brown Act and remote meetings during the state of emergency. AB 361 allows local agencies to continue to conduct remote or “Zoom” meetings during a declared State of Emergency. The City Council adopted Resolution No. 5067 on September 22, 2021, determining as a result of the emergency, meeting in person would present imminent risk to the health or safety of attendees. The City Council shall make this determination every 30 days. Pursuant to AB 361, please be advised that some or all of the Westminster Planning Commission Members will participate in meetings via teleconference/web conference.

The Planning Commission of the City of Westminster, California convened on October 20, 2021 at 6:32 p.m. at 8200 Westminster Boulevard, Westminster, California, and via teleconference. Members of the public wishing to address the Planning Commission were asked to submit an e-mail for written comments or a request to speak form to provide verbal comments before the start of the meeting. Additionally, any members of the public in attendance that wished to speak but had not previously provided a request to speak form were also provided an opportunity to address the Planning Commission.

1. PLANNING COMMISSION ROLL CALL:

ANDERSON, NGUYEN, PHAM, SEID (One Vacancy Exists)

PRESENT: ANDERSON, NGUYEN, PHAM, SEID

ABSENT: NONE

STAFF PRESENT:

Steven Ratkay, Planning Manager; Christopher Wong, Senior Planner; Alice Tieu, Associate Planner; Kathya M. Firlik, Assistant City Attorney; Alejandro Lopez, Westminster Police Detective; Shelley Stevens, Senior Administrative Assistant.

2. SALUTE TO FLAG:

Commissioner Anderson led the salute to the flag.

3. REPORT FROM PLANNING SECRETARY ON LATE COMMUNICATION ITEMS

Planning Manager Ratkay reported that there were a handful of written comments pertaining to item 8.2 that would be read into the record at the appropriate time in the meeting.

4. EX PARTE COMMUNICATIONS

Commissioner Anderson reported visiting the site for item 8.2 on the agenda.

5. SPECIAL PRESENTATIONS - None

6. ORAL COMMUNICATIONS

Terry Rains, Westminster, stated she had contacted staff and inquired if a permit was required for concrete flatwork, there had been previous discussion at both the Planning Commission and City Council. She was provided a copy of Westminster Municipal Code Section 17.310.033 (modifications to single family residential landscaped areas), which didn't address her questions adequately. She opined that the Municipal Code needed to be revamped because if it is difficult to understand, it is also difficult to enforce. She then provided the Commission an update two businesses previously approved by the Commission, OC Entertainment, also known as OC Nightclub and Keg Sluggers Sports Bar. She also felt that the vacancy on the Planning Commission should not have to wait until the Nepotism policy is voted on at the City Council; and, added that Chair Seid may have to step down if the nepotism Ordinance becomes effective.

7. APPROVAL OF MINUTES – September 15, 2021

Motion: It was moved by Commissioner Anderson, and seconded by Chair Seid, to approve the minutes of the September 15, 2021 regular meeting. The motion carried (4-0) with the following vote:

AYES: ANDERSON, NGUYEN, PHAM, SEID
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

8. PUBLIC HEARINGS

8.1 Case No. 2020-1127 (General Plan Amendment, Zoning Map Amendment, Conditional Use Permit, and Development Review)

Location: 8251 Heil Avenue

Assessor's Parcel Numbers: 107-220-68, 107-220-69, and 107-521-49

Applicant: ActivCare Living, Inc.

Project Planner: Christopher Wong, Senior Planner

PROJECT DESCRIPTION: A proposal to develop and operate a residential care facility on a vacant lot.

RECOMMENDATION: Staff recommends that the Planning Commission postpone the public hearing to its next regularly scheduled meeting on November 3, 2021, as requested by the applicant.

Senior Planner Christopher Wong provided a brief presentation to the Commission, offering that the applicant is working through a design issue with staff and desired the continuance to the November 3, 2021 meeting to allow time for the issue to be resolved. He added that if the Commission grants the continuance, a new public notice will not be sent as one was already sent on October 7th.

Motion: It was moved by Chair Seid, and seconded by Commissioner Pham, to continue the matter until the November 3, 2021 regular meeting. The motion carried (4-0) with the following vote:

AYES: ANDERSON, NGUYEN, PHAM, SEID
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Planning Manager Steve Ratkay reiterated that since the action of the Commission was to postpone the hearing to the November 3rd meeting, no further notice will be provided and we certainly invite the public at that time to participate in the public hearing.

After the hearing for item 8.2 was conducted, item 8.1 was called back to allow a comment from the public. (See comment following the motion for 8.2.)

8.2 2020-1215 (Conditional Use Permit)

Location: 13073 Springdale Street

Assessor's Parcel Number: 203-111-04

Applicant: Tariq Ammari

Project Planner: Alice Tieu, Associate Planner

PROJECT DESCRIPTION: A Conditional Use Permit (CUP) proposal to allow for the incidental off-site sales of beer, wine, and distilled spirits (Type 21 Alcoholic Beverage Control License), in conjunction with a proposed 1,653 square foot convenience store, with incidental sales of tobacco.

CEQA COMPLIANCE: The proposed project has been reviewed pursuant to the California Environmental Quality Act (CEQA) and the requirements of the City of Westminster. If the project is approved, the project would be deemed to be categorically exempt per Class 1 Section 15301 of the California Environmental

Quality Act (CEQA) because the project consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alterations of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

If the requested application is denied, then CEQA does not apply to projects which a public agency rejects or disapproves under the provisions of CEQA Section 15270 (Projects which are Disapproved).

RECOMMENDATION: Staff recommends that the Planning Commission consider the requested Conditional Use Permit Case No. 2020-1215 to either approve or deny the applicant's request by adopting one of the two following resolutions:

"A Resolution of the Planning Commission of the City of Westminster Approving Case No. 2020-1215, Conditional Use Permit to allow for the incidental off-site sales of beer, wine, and distilled spirits in conjunction with a proposed convenience store, located at 13073 Springdale Street, (Assessor's Parcel Number 203-111-04)."

"A Resolution of the Planning Commission of the City of Westminster Denying Case No. 2020-1215, Conditional Use Permit to allow for the incidental off-site sales of beer, wine, and distilled spirits in conjunction with a proposed convenience store, located at 13073 Springdale Street, (Assessor's Parcel Number 203-111-04)."

Associate Planner Alice Tieu provided a PowerPoint presentation to the Commission.

Chair Seid inquired if there were any locking mechanisms on the refrigerators and if there was any additional training required for the business staff. Associate Planner Tieu responded that the refrigerators are standard and she was not sure what Alcoholic Beverage Control (ABC) would require of staff. Planning Manager Ratkay offered that question might be better answered by the applicant.

Commissioner Anderson stated that sometimes employees at liquor stores don't adhere to the ABC requirements and sometimes sell alcohol to minors. He inquired if there was some sort of a background check performed. Planning Manager Ratkay stated that a review of the applicant's background is part of the Police Department review conducted prior to the public hearing. He added that he was not aware of any issues with the applicant's background check.

Commissioner Pham inquired if there was any security proposed. Associate Planner Tieu stated that the applicant had stated they would hire security as needed, but that it might be best for the applicant to answer that question.

CHAIR SEID OPENED THE PUBLIC HEARING

Tariq Amari, resident of Anaheim and the project applicant, stated that there is required ABC training for his staff. He also offered that he already operates a smoke shop in the City of Anaheim, which also requires that staff checks the age of the patrons since we sell tobacco products. He stated that it was his intent to have security on the weekend initially since he was unsure of the need, adding that the area is considered low crime by the police department. He concluded that he was open to any recommendations as well.

Sonia Huitron, resident of Riverside, representing the applicant, confirmed that the ABC does require training of staff and the owner. She stated the ABC program is called Lead (licensee education on alcohol and drugs). She confirmed that they would provide security as needed and they were also open to hiring a security expert to design a security plan for the business if recommended by the Commission or Police Department.

Terry Rains, Westminster resident, apologized and stated she knows this is not the time to talk about 8.1, but she had not been provided an opportunity to speak earlier. She stated that a legal hearing was noticed and the applicant requested a continuance, she said that the Commission had to take testimony, especially if the hearing was not going to be re-noticed. She asked that the Assistant City Attorney address this issue after 8.2 is concluded and perhaps allow her to speak on item 8.1. She offered that there was a difference between postponement and continuance and what you have to do as far as legal notices are concerned.

Regarding item 8.2, Ms. Rains offered that she had researched the proposed business and only found the business registered under the business owner's name, Tariq Amari, is TZNA LLC., the statement of information on that business states it is a retail store and the business address is a home, not a business address, on the ABC license the business name is Valley Liquor, and while checking the secretary of state site there is no such name registered. She stated she supports small business in our City, but when it comes to alcohol licenses she hopes that the Commission and the Council will ask some tough questions to make sure the applicant understands what is required of them and what consequences are for any violations.

Ms. Rains concluded that she would really like to be heard on item 8.1 and reiterated that a legally noticed public hearing will be opened, testimony taken, and the hearing continued at that point. If you postpone an item it must be re-noticed. If the City attorney disagrees on that point she would love to hear his or her opinion.

THERE BEING NO FURTHER SPEAKERS, CHAIR SEID CALLED FOR ANY WRITTEN COMMENTS TO BE READ INTO THE RECORD.

Written Comment #1 – Mike Maida – Westminster resident adjacent to the proposed liquor store. Submitted a comment in opposition with the following summarized objections:

- Other liquor stores and gas stations in close proximity to the proposed location
- Poor location, next to the ice skating rink where kids frequent
- Possible homeless inhabitants in back of the store near the cage

Written Comment #2 – Molham Maida – Westminster resident living in the Los Alisos Mobile Home Estates which is in close proximity to the proposed liquor store. Submitted a comment in opposition with the following summarized objections:

- A new gas station in close proximity to the proposed location
- Poor location, where kids walk to school
- Possible trash, or small alcohol bottles left around the vicinity

Written Comment #3 – Moe Elaoutia – Westminster resident living on Garden Grove Boulevard in close proximity to the proposed liquor store. Submitted a comment in opposition with the following summarized objections:

- Poor location, where kids walk to school
- Other liquor stores and gas stations in close proximity to the proposed location
- Possible increase in homeless in the area
- Poor location, next to the ice skating rink where kids frequent

Written Comment #4 – Hee Dav – Submitted a comment in opposition with the following summarized objections:

- Possible increase in crime and homeless activity
- Poor location, next to the ice skating rink where kids frequent
- Alcohol and cigarettes are not age appropriate for children
- If approved, the store should be prohibited from selling single beers and small sized alcohol as it is more probable for homeless people to purchase

CHAIR SEID CALLED FOR REBUTTAL.

Tariq Amari, project applicant, stated he would prefer that Ms. Huitron speak on his behalf for rebuttal.

Sonia Huitron, representing the applicant, stated that was not their intention to sell alcohol to minors. She offered that they are going through the ABC training program and their intention to open a liquor store is to create more revenue and jobs for the City. She also stated that they were willing to work with the police department and any other department that will help them operate and keep everyone safe. She reiterated that they were willing to establish a security plan. She acknowledged that the store was right next to the ice skating rink but they will not be selling alcohol unless they card people. She also mentioned that there is a fence behind the building that is being worked on so the concern about homeless living behind the store was not going to happen.

WITH ALL COMMENTS AND REBUTTAL CONCLUDED, CHAIR SEID CLOSED THE PUBLIC HEARING AND CALLED FOR COMMISSIONER QUESTIONS REGARDING THIS MATTER.

Commissioner Nguyen stated that the proposal stated that security would be on call for any busy hours during the week. She wondered how it would be controlled. Associate Planner Tieu stated that question is better asked of the applicant. Before calling the applicant back, Senior Administrative Assistant Stevens asked Assistant City Attorney Firlik if we should reopen the public hearing. Ms. Firlik stated if it is just clarification, we don't need to open the public hearing, if it becomes more than we will reopen the public hearing.

Sonia Huitron, stated that they are planning to hire the security guard for about two weeks to a month to find out when the peak hours are, so they can plan to hire future security according to their peak hours.

Commissioner Anderson inquired about previous comments provided by Ms. Rains and also inquired where Mr. Amari's other business is located. Ms. Huitron stated that the corporation was registered prior to applying for a liquor license. The corporation was registered as a sole proprietor prior to them having the location for the liquor store and that is why Mr. Amari's home address shows up on the statement of information. They were waiting to update the corporation information until they find out what happens with the conditional use permit. Ms. Huitron offered that Mr. Amari's other business is a smoke shop located on Brookhurst Street in Anaheim.

Commissioner Anderson asked staff about the business being referred to as a convenience store in the staff report, but there had been a number of references to the business being a liquor store during the public hearing. Associate Planner Tieu stated that according to how the business is defined in the Municipal Code, it is a convenience store. Ms. Huitron stated that it is their intent to be a convenience store business. Commissioner Anderson asked what name they intended to use and if liquor was going to be in the name. Ms. Huitron said she didn't have that information but they would comply with whatever the City wished.

Commissioner Pham stated her concerns about no restrictions where the alcohol is stored based on the floor plan and she was concerned that it wasn't safe it was not in a locked case or behind the counter. Ms. Huitron responded that the spirits are located behind the counter, so people won't have access to it.

Commissioner Anderson inquired if there was intent to sell small containers or single servings of alcohol. Ms. Huitron stated that beer would be available but they would have security. She believed that spirits will be sold in regular size bottles and beer will be sold in 6-packs, 24-packs, and single servings, but Mr. Amari could correct her if she was wrong.

Commissioner Anderson inquired about the fence being built in the back of the store. Associate Planner Tieu stated that the City has been working with the property owner to revise a chain link fence that was constructed between the retail strip and the ice skating rink to try to curb the homeless from residing in back of the buildings. The City

has issued a temporary use permit for that fence, but they need to submit for a permanent fence to be constructed. She added the City won't approve a chain link as permanent, it needed to be a decorative fence. Further discussion ensued about the fence and the requirements of the property owner to comply.

Discussion ensued about prohibiting sale of single containers, prohibiting single containers obtained from a distributor, the size of a single serving, prohibiting and the limitations of prohibiting the use of the word "liquor" in the convenience store name.

The Commission asked for the applicant, Mr. Amari, to return and answer some of the questions previously raised. Mr. Amari stated he does not have a preference in the name as long as it has "Valley" in the name. Commissioner Anderson asked for confirmation that Mr. Amari was fine not stating his store was a "liquor" store. Mr. Amari stated he was fine with not having "liquor" in the name. Mr. Amari further confirmed the location and name of his other smoke shop business located in Anaheim.

Commissioner Anderson stated he was ready to make a motion, to approve the application with the understanding, but not a condition, that the applicant will not use the word liquor in the name of the store and that all containers of beer wine and distilled spirits will not be of a single serving size.

Further discussion ensued about what actually constitutes a single serving and including a liquid volume quantity to further clarify the proposed motion.

Motion: It was moved by Commissioner Anderson, and seconded by Chair Seid, to approve as recommended with the understanding that the applicant will not use "liquor" in the business name and adding to Condition No. 13 in the resolution prohibiting the sale of single serving alcohol containers and prohibiting sale of containers that is 50 milliliters or less. The motion carried (4-0) with the following vote:

AYES:	ANDERSON, NGUYEN, PHAM, SEID
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

Assistant City Attorney Firlik stated that it would be appropriate to call any members of the public wishing to speak for item 8.1. She added since it was a continued hearing to a date certain, we would not be sending out a new public notice. Senior Administrative Assistant Stevens inquired if the public hearing should be opened to take testimony. Assistant City Attorney Firlik indicated that opening the public hearing was not necessary and comments could be memorialized in the minutes.

Terry Rains, Westminster resident, spoke regarding item 8.1 and offered that she had sent an email to City staff asking for clarification about the use of the term postponement in the staff report and the location of the vacant lot near the Westmont

Elementary School where the project was proposed. She stated that she only received a response to her email about the project location, but that information was difficult to understand since the project information was not included in the staff report. She shared her objections to the way the continuation and the public hearing were handled for item 8.1 and stated that she would be taking the matter up with City Attorney Bettenhausen.

9. REGULAR BUSINESS - None

10. REPORTS - None

11. MATTERS FROM STAFF

Planning Manager Ratkay thanked staff and the Commission for all of their hard work. He stated that the next meeting will be on November 3rd and we already have one item, continued from this meeting, on that meeting agenda.

12. MATTERS FROM THE PLANNING COMMISSION – INCLUDING AB1234 REPORTS WHEN REQUIRED

Commissioner Anderson inquired about the recent digital billboard approved by the Planning Commission, he wished to know if it was appealed. Planning Manager Ratkay stated that it was not appealed and all conditions of approval including the bond had remained in the conditions.

Commissioner Anderson inquired about OC Nightclub and the possibility of bringing the item back to the Planning Commission for review. Further discussion ensued about the process. Planning Manager Ratkay stated that there is an ongoing investigation related to this property. He offered that staff can bring back a status report and at that time the Commission could decide if they wish to initiate further action.

Commissioner Anderson inquired about Sluggers Sports Bar and if the letters to the surrounding neighborhood went out. Planning Manager states that it has and the Planning Division received a copy of the mailed letter.

Commissioner Anderson reported that while visiting the site for item 8.2, he noticed that the landscape planter along Garden Grove Boulevard is void of landscaping. He would like for the appropriate parties to be notified. He also asked for a status update on the billboard proposal at the same location (Rinks). Planning Manager Ratkay explained that the property owner had submitted proposal for a new billboard and it was under review and he would notify the appropriate party about the landscaping.

Chair Seid asked if there was an estimated time to fill the Planning Commission vacancy. Planning Manager Ratkay said that he was not currently aware of a date, but he would provide an update the Commission as soon as he gets any new

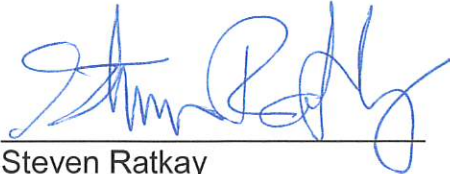
information. Chair Seid offered that if it is going to take a while, the Commission might move forward on selecting a new Vice Chair.

13. ADJOURNMENT

The meeting was adjourned at 8:20 p.m. to a regular meeting on Wednesday, November 3, 2021 at 6:30 p.m.



Don Anderson
Planning Commission Vice-Chair



Steven Ratkay
Planning Commission Secretary

Prepared by:



Shelley Stevens
Senior Administrative Assistant