



**PLANNING COMMISSION
Minutes of the Regular Meeting
Teleconference/Web Conference Only
8200 Westminster Boulevard
Westminster, CA 92683
November 3, 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 November 3, 2021 at 6:35 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; Kathya M. Firlik, Assistant City Attorney, Adolfo Ozaeta, Interim Assistant City Manager; Daniel Hsieh, City Associate Civil Engineer; Memnon Torio, Assistant Planner; Shelley Stevens, Senior Administrative Assistant.

CONSULTANTS PRESENT:

Bill Hodge, Environmental Consultant

2. SALUTE TO FLAG:

Commissioner Pham led the salute to the flag.

3. REPORT FROM PLANNING SECRETARY ON LATE COMMUNICATION ITEMS

Planning Manager Ratkay reported that there was one late communication item forwarded to the Commission pertaining to item 8.1 on the agenda.

4. EX PARTE COMMUNICATIONS

Chair Seid reported meeting with the applicant for item 8.1 on the agenda.

5. SPECIAL PRESENTATIONS - None

6. ORAL COMMUNICATIONS

Terry Rains, Westminster resident, questioned if an update would be provided on the following items: status of OC Nightclub's investigation, filling the planning commission vacancy, employee attire at Keg Sluggers Sports Bar, and a clear explanation of permit requirements for homeowners replacing all or part of their front yard with concrete. She informed the Commission that she had written a formal letter of complaint about policy and legal procedure in relation to the October 20, 2021 regarding the continuation of Case No. 2020-1127.

Gina Clayton-Tarvin, Huntington Beach resident and Ocean View School District Trustee, stated the District represents part of Westminster, most of Huntington Beach, part of Fountain Valley, and all of Midway City. She commended Senior Planner Wong for the service he provided. She offered that the City's virtual meeting procedure regarding the submittal of a request to speak form was too difficult and didn't serve the community or the homeless population well; adding that not everyone has printers or scanners to print the request to speak form, then fill it out, then scan it back into a format that can be emailed. She opined the City could do better to make sure planning commission meetings were more inclusive to ensure everyone has a chance to speak.

7. APPROVAL OF MINUTES – None

8. PUBLIC HEARINGS

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

Continued from the October 20, 2021 Meeting

Location: 8251 Heil Avenue

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

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.

CEQA COMPLIANCE: The proposed project has been reviewed pursuant to the California Environmental Quality Act (CEQA), the State of California Implementation Guidelines, and the requirements of the City for any potential environmental impacts associated with the project. These potential impacts were evaluated in an Initial Study (IS), which discusses in detail the various environmental impacts. As a result, a Mitigated Negative Declaration (MND) was prepared by Hodge and Associates and is recommended for consideration by the Planning Commission. The IS/MND identified the following environmental factors to be potentially affected: air quality, hazards and hazardous materials, hydrology and water quality, noise, public services, and tribal cultural resources.

On September 10, 2021, Hodge and Associates provided a Notice of Intent (NOI) to adopt a Mitigated Negative Declaration (MND) to all responsible agencies, the county clerk, all organizations and individuals who have previously requested such notice in writing, and directly mailed it to property owners and occupants of property contiguous to the project site. Notices were also posted at the project site, City Council Chambers, City Hall, Westminster Branch Library, and on the City's website. The NOI included a description of the proposed project and its location; the start and end dates for the public review period; and the address where copies of the MND are available for review. The public review period began on September 14, 2021 and ended on October 4, 2021.

RECOMMENDATION: Staff recommends that the Planning Commission take the following actions:

- 1) Adopt a resolution entitled, "A Resolution of the Planning Commission of the City of Westminster Recommending that the Mayor and City Council Adopt a Mitigated Negative Declaration Associated with Case No. 2020-1127 Involving a General Plan Amendment, Zoning Map Amendment, Conditional Use Permit, and Development Review for the Proposed Development of a Residential Care Facility on Property Located at 8251 Heil Avenue (Assessor's Parcel Numbers 107-220-68 and 107-220-69)"; and

- 2) Adopt a resolution entitled, "A Resolution of the Planning Commission of the City of Westminster Recommending that the Mayor and City Council Approve Case No. 2020-1127 Involving a General Plan Amendment, Zoning Map Amendment, Conditional Use Permit, and Development Review for the Proposed Development of a Residential Care Facility on Property Located at 8251 Heil Avenue (Assessor's Parcel Numbers 107-220-68 and 107-220-69)."

CHAIR SEID OPENED THE PUBLIC HEARING AND CALLED UPON SENIOR PLANNER CHRISTOPHER WONG TO PRESENT ITEM 8.1.

Senior Planner Wong provided a PowerPoint presentation to the Commission.

Commissioner Anderson asked for the reason the applicant wanted a continuance from the October 20, 2021 meeting. Senior Planner Wong stated there was a fence along the eastern part of the property that the applicant no longer wanted to propose, so they wanted to remove that wall from the site plan prior to bringing it to the Commission.

CHAIR SEID NOW OPENED PUBLIC COMMENT AND INVITED THE APPLICANT TO SPEAK.

Kevin Moriarty, San Diego resident and the CEO of ActivCare Living, Inc. (project applicant), stated his company has been taking care of people with memory care issues for about 30 years. He provided some company history and its role in creating legislation regarding secure perimeter memory care facilities. He offered that there is a need for more memory care facilities in Westminster and the surrounding communities to serve the aging population. He explained that the facility built upon land with a long term 60-year ground lease from the Ocean View School District. He commended staff for the work done on this project and concluded by asking the Commission for approval.

Gina Clayton-Tarvin, Huntington Beach resident and Ocean View School District Trustee, provided the various roles she has served on the board of trustees for Ocean View School District and then provided a history of the Ocean View School District. She offered that the District keeps the land they own and enter into ground leases with developers, such as the memory care proposal before the Commission. She concluded by asking the Commission for approval.

Terry Rains, Westminster resident, since the applicant has entered into a 60-year ground lease with the school district, the City needs to make sure that this proposal is consistent with the goals, policies and strategies of the City's General Plan and zoning requirements. She questioned how a lot line adjustment could have been approved on March 30, 2021 without any Planning Commission or City Council meetings scheduled at that time. Additionally, she questioned the proposed zoning amendment for this project in comparison to the zoning for other similar facilities in Westminster

with different zoning designations. She felt that there was not enough parking for the proposed facility.

Ira Brunswig, Huntington Beach Resident and a special representative of the Southwest Regional Council of Carpenters, stated he was attending tonight's meeting to see if it was possible to set up a meeting with the applicant. He offered the numerous benefits of using a local labor force and asked that a point of contact be shared.

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

Kevin Moriarty, San Diego resident and project applicant, responded to the last speaker, Mr. Brunswig, from the Southwest Regional Council of Carpenters first stating that he would be happy to set up a meeting. He offered it might be too early in the development process to have answers to potential questions, but still happy to set up a meeting. He stated that his contact information may be passed along through Mr. Wong at the City. He then responded to Ms. Rains comments and offered that the lot line adjustment was approved by City staff administratively and parking for staff is addressed through carpooling, other family member drop-off of staff, and public transportation.

Commissioner Anderson inquired about the wall that was removed from the site-plan, if there was a separation between the school and the facility, guest parking use, and several questions about architectural design and materials used. Mr. Moriarty responded that the wall removed from the site plan actually was an existing wall that belongs to the school. He confirmed there will be a physical separation between the school and the facility. He also responded to questions about roof tiles, non-functional chimneys, and various architectural details.

Commissioner Pham inquired if the facility was safe for the residents. Mr. Moriarty explained that the perimeter was secure for the residents.

Chair Seid inquired why the facility was proposed at a lower density than similar facilities in the area. Mr. Moriarty explained that all of the ActivCare facilities were built as single-story facilities and he offered the main reason was to make it easier for residents to ambulate throughout the facility. He stated that his facilities offer more active care versus custodial care for the residents, where other facilities are a more custodial care option.

CHAIR SEID CLOSED THE PUBLIC HEARING

Commissioner Anderson provided some history of the site, stating there once was a proposal for a car dealership on the same parcel which would have been a very different use. He offered that the property has been vacant for a number of years and it was encouraging that we have a developer that has done the research, reached an

agreement with the school district, and has brought a project that is compatible with the surrounding neighborhood. He was in favor of approval but wanted to address the elevations on the proposal that seemed to lack architectural detail.

Discussion ensued about the architectural detail along the wings of the building.

Chair Seid asked for the Interim Assistant City Manager and Transportation Manager Adolfo Ozaeta to explain how the traffic would work on the site and provide an overview of the analysis.

Interim Assistant City Manager stated that the number of parking spaces required as per the Westminster Municipal Code is 20, the facility is proposing 25 parking spaces so there is a surplus of parking. He offered that historical data in relation to similar uses throughout the City have used the Municipal Code parking requirement and he was comfortable that this facility would be served well by the proposed 25 parking spaces. He then explained the traffic analysis, traffic burden and road way capability, number of trips per day, speed limits, and accident analysis.

Chair Seid inquired asked what the process was for a lot line adjustment. Senior Planner Wong explained that lot line adjustments are submitted to the Planning Division and approved administratively by the Community Development Director and City Engineer; and, at the end of the process, the lot line adjustment is recorded with the County of Orange. He added that as per the Westminster Municipal Code, the lot line adjustment does not require a public hearing or a public notice.

Further discussion ensued about the additional architectural detail desired along the wings of the building.

Motion: It was moved by Commissioner Anderson, and seconded by Chair Seid, to recommend to the Mayor and City Council to adopt a Mitigated Negative Declaration associated with Case No. 2020-1127, involving a General Plan Amendment, Zoning Map Amendment, Conditional Use Permit and Development Review for the proposed development of a residential care facility, with an added requirement that the applicant will work with staff to modify the four wings of the building with additional architectural elements. The motion carried (4-0) with the following vote:

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

9. REGULAR BUSINESS - None

10. REPORTS – None

11. MATTERS FROM STAFF

Planning Manager Ratkay offered that whenever the City receives a complaint regarding a municipal code violation, whether it be for commercial or residential properties, the City's Code Enforcement Division collaborates with various departments in the City and initiate an investigation to determine the validity of those claims. He just wanted to ensure the Commission and members of the public were aware that the complaints received during meetings are addressed through appropriate channels. He also offered that the November 17th meeting would likely be cancelled since no items were scheduled for that meeting. He thanked the staff, Assistant City Attorney Firlik and the Planning Commission for all the work they do.

Chair Seid, inquired about the OC Nightclub and if a status update could be given. Planning Manager Ratkay offered that it was best not to discuss an item that may come before the Commission as a possible revocation hearing. The main reason is that by discussing that item, a Commissioner may potentially express bias towards a particular case before all the facts are presented. He added that the appropriate process is to wait for the investigators to complete their investigation and inform us when they believed it was time to consider a possible revocation. At that time a number of actions would be triggered to provide due process for the parties involved.

Chair Seid also inquired if there was an update on the Planning Commission vacancy. Planning Manager Ratkay stated there was no update at this time, but he would inform the Commission when someone has been appointed.

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

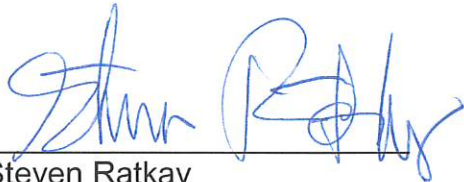
Commissioner Anderson, in response to Ms. Clayton-Tarvin's comments during oral communications, inquired about the steps required to speak before the Planning Commission. Senior Administrative Assistant Stevens offered that the process created for virtual Planning Commission meetings was a work-around since technically the meetings are not on the same platform as City Council Meetings. She offered the request to speak form was on the City website, linked to the agenda, and linked to the email that goes out to all Commissioners, panelists, and applicants; adding that the form may be downloaded, saved, edited to enter information, and then emailed back. No printing or scanning was required. Additionally, as the Commission has seen, any member of the public in attendance is provided an opportunity to speak provided they raise their hand on Zoom to be acknowledged. Commissioner Anderson stated he thought that was important for the public to know that the form can be brought up on an electronic device, filled out on the device and then submitted on that device. And, he offered, that since nobody is turned away at meetings for lack of a request to speak form, he was comfortable with the process.

13. ADJOURNMENT

The meeting was adjourned at 8:30 p.m. to a regular meeting on Wednesday, November 17, 2021 at 6:30 p.m.



Don Anderson
Planning Commission Vice-Chair



Steven Ratkay
Planning Commission Secretary

Prepared by:



Shelley Stevens
Senior Administrative Assistant