



**PLANNING COMMISSION
Minutes of the Regular Meeting
Teleconference/Web Conference Only
8200 Westminster Boulevard
Westminster, CA 92683
April 20, 2022
6:30 p.m.**

The Planning Commission of the City of Westminster, California convened on April 20, 2022, at 6:30 p.m. at 8200 Westminster Boulevard, Westminster, California, and via teleconference. Members of the public wishing to address the Planning Commission were able to join in-person or remotely via "Zoom."

Chair Anderson called the meeting to order and welcomed the Commission, staff, and the public back to in-person meetings. He felt that local government works best in person, adding that it had been a couple years and it was a pleasure to be back to in-person meetings.

1. PLANNING COMMISSION ROLL CALL:

ANDERSON, A. NGUYEN, Q. NGUYEN, PHAM, VU-NGUYEN

PRESENT: ANDERSON, A. NGUYEN, PHAM, VU-NGUYEN

ABSENT: Q. NGUYEN

STAFF PRESENT:

Steven Ratkay, Planning Manager; Sandie Kim, Associate Planner; Debra Kurita, Interim Community Development Director; Scott Porter, Deputy City Attorney; Darin Upstill, Westminster Deputy Police Chief; Cord Vandergrift, Westminster Police Commander; Justin Nguyen, Building Official; Ramon Perez, Community Preservation Supervisor; Shelley Stevens, Senior Administrative Assistant.

2. SALUTE TO FLAG

Chair Anderson led the salute to the flag.

3. ELECTION OF VICE CHAIR

There was consensus among the Commission to postpone the election for Vice Chair to a future meeting.

4. REPORT FROM PLANNING SECRETARY ON LATE COMMUNICATION ITEMS

Planning Manager Ratkay reported that one late communication for item 10.1 had been received prior to the meeting tonight.

5. EX PARTE COMMUNICATIONS

Commissioner Pham reported visiting the site of item 10.1 on the agenda. Chair Anderson disclosed that he had not visited the site for item 10.1, or had any contact with the parties involved with the project.

6. SPECIAL PRESENTATIONS - None

7. ORAL COMMUNICATIONS

There were no speakers for Oral Communications.

Chair Anderson explained that for any speakers wishing to comment on item 10.1, there would be time for public comment during that business item.

8. APPROVAL OF MINUTES – August 18, 2021 and February 16, 2022

Motion: It was moved by Chair Anderson, and seconded by Commissioner Nguyen, to approve the minutes of August 18, 2021 as presented. The motion carried (4-0) with the following vote:

AYES: ANDERSON, NGUYEN, PHAM, VU-NGUYEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Motion: It was moved by Commissioner Pham, and seconded by Chair Anderson, to approve the minutes of February 16, 2022 as presented. The motion carried (4-0) with the following vote:

AYES: ANDERSON, NGUYEN, PHAM, VU-NGUYEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

9. PUBLIC HEARINGS - None

10. REGULAR BUSINESS

10.1 2019-239 (Public Convenience or Necessity).

Location: 14190 Beach Boulevard

Assessor's Parcel Number: 097-080-36

Applicant: David Vo, 14190 Beach Boulevard, Westminster, CA 92683

Project Planner: Sandie Kim, Associate Planner

PROJECT DESCRIPTION: A request for a determination of Public Convenience or Necessity (PCN) for Alcohol License Type 48 (On-site sale and consumption of beer, wine, and distilled spirits).

CEQA COMPLIANCE: A determination of Public Convenience or Necessity (PCN) is not a project; therefore, it is not subject to the California Environmental Quality Act (CEQA).

RECOMMENDATION: Staff recommends that the Planning Commission either adopt a resolution entitled, "A Resolution of the Planning Commission of the City of Westminster Determining That the Existing Public Convenience or Necessity (PCN) Finding for an Alcohol License to Serve Beer and Wine (Type 42) is also Valid and Applicable for an Alcohol License to Serve Beer, Wine, and Distilled Spirits (Type 48) on Property Located at 14190 Beach Boulevard (Assessor's Parcel Number 097-080-36)."; or Adopt a resolution providing a new PCN Determination entitled, "A Resolution of the Planning Commission of the City of Westminster Granting a New Public Convenience or Necessity (PCN) Finding for an Alcohol License to Serve Beer, Wine, and Distilled Spirits (Type 48) on Property Located at 14190 Beach Boulevard (Assessor's Parcel Number 097-080-36)."

Planning Manager Steve Ratkay provided an introduction of 10.1 and also provided an introduction of additional staff present should there be any questions: Debra Kurita, Interim Community Development Director; Darin Upstill, Deputy Police Chief; Ramon Perez, Community Preservation Supervisor; and, Justin Nguyen, Building Official.

Associate Planner Sandie Kim provided a PowerPoint presentation to the Commission.

For the benefit of public members present, Chair Anderson explained that the applicant or applicant's designee would have 12 minutes to speak, then all public wishing to speak will have five minutes, and then a rebuttal of five minutes would be provided to the applicant if they wished to speak.

CHAIR ANDERSON OPENED THE PUBLIC COMMENT PERIOD.

Duke Hwei, architect for the applicant David Vo, stated that they totally agree with the recommendations, and have no further comment at present.

Don Johnson, representing the adjacent properties surrounding OC Nightclub's location, stated he has managed the West County Properties for over 25 years. He offered that the original approval for OC Nightclub was only to be for family gatherings, but it has turned into a full bar operation since opening. Since there was another restaurant/bar adjacent to this building, it has created issues for parking and trash cleanup of events. He understood that OC Nightclub's lease only allows 25-30 parking spaces and when they have events with 200 people, the parking spills over to the West County Properties. He added, if both operations were at full capacity with events,

there would be no place to park. He stated that his property management company has received a noise complaint that had nothing to do with their property tenants, adding that OC Nightclub should mitigate how much noise is emitting from the building either with sound proofing or double doors.

Connie Nguyen, business owner adjacent to the OC Nightclub facility, stated that she and her husband have owned Bleu Restaurant for over 20 years. She offered that everything she stated about the OC Nightclub business during the previous public hearings had come true; adding that it was very apparent, to her, that Mr. Vo's intention had always been to open a nightclub. She offered that a Type 48 liquor license would not allow him to operate his approved banquet facility since it only allows people over 21 years of age to enter, including employees. She felt that it was a mistake to approve a Conditional Use permit with a Type 48 alcohol license and include a condition that allowed patrons under 18 years of age to enter prior to 6:00 PM; adding that it would break the law. She offered several examples of violations that had happened since the business opened: selling distilled spirits, while only having a beer and wine license; selling tickets at the door; and, holding a naked sushi event. She stated there were many other violations to list, but only mentioned a few in the interest of time. She then offered that there was a pending open court case regarding his selling of distilled spirits and added that she provided a document showing the court case to the Commission this evening (Late Communication). She felt that Mr. Vo has received special treatment from the City and concluded that she wanted all businesses to be treated equally and not allow some businesses to have less strict regulations because of their business relationship with the City. She requested that the City revoke the CUP before someone got hurt at the premise due to Mr. Vo's reckless and careless attitude toward the law.

Terry Rains, Westminster resident, stated she had previously asked for a public hearing to reconsider OC Nightclub's Conditional Use Permit (CUP). She offered several examples of OC Nightclub violations since the business opened: a liquor license misdemeanor by serving distilled spirits not covered by license, for which there is an active court case for David Vo; charging admission fees for patrons; use of third-party promoters; violating Alcoholic Beverage Control's restrictions to of alcohol service past 1:00 AM and reduced alcohol price promotions; holding a "naked sushi model" event; selling raffle tickets for VIP reservations; and, unpermitted modifications of the facility. She concluded by stating OC Entertainment was a public nuisance and a drain on the City's resources and felt the City should begin revocation proceedings on the CUP.

CHAIR ANDERSON CALLED THE APPLICANT FOR A REBUTTAL.

David Vo, business owner and project applicant, stated that Mrs. Nguyen's comments were not true. He offered that they had been open a year and have never had any incidents. He opined that any incidents in the area were caused by Bleu Restaurant. He offered that the naked sushi model incident was something his manager offered and he didn't know the event was happening. He stated that Bleu patrons had used

his parking spots while his business was closed to fix the Code violations and he had enough parking for his patrons. He concluded by stating that he operated his business in a safe manner.

Duke Hwei, stated that he didn't have much to add about the operation of the business since Mr. Vo operates the business. He stated he had been working with Mr. Vo to upgrade the facilities for the Type 48 license by adding a bar, wet bar, and a food prep area. He offered it was a very involved process and he had to work with the health department and fire department to make sure everyone was happy. He understood that all the Code violations had been addressed. He offered that there was a shared parking agreement with another nearby business to address the parking issue.

Chair Anderson questioned Terry Rains if she had observed the events that have taken place, or was she advised of these events secondhand.

Terry Rains stated she had both observed events and been advised of the events by others. She further stated if the Commission would look at the series of events, each of the events had been vetted by either the Code Enforcement Department, Police Department, or the Planning Department.

Chair Anderson stated that based on the comments made by the community, there was obvious concern about the operation of the business. He offered that this review was a unique situation; adding that at the time the CUP was approved, there were a limited number of Type 48 alcohol licenses and none were available for Mr. Vo at that time. Mr. Vo then settled on a Type 42 alcohol license until this Type 48 became available. He offered that the Commission is really not looking at the CUP, but really here to discuss the issuance of a Type 48 alcohol license.

Commissioner Vu-Nguyen called Deputy Chief Upstill to inquire about the violations shared by Ms. Terry Rains. She wished to know if the list of violations was accurate.

Westminster Deputy Police Chief Upstill, offered that they had received complaints in the past regarding potential Code enforcement violations. He offered that a representative from Code Enforcement was present at the meeting if the Commission had any Code Enforcement related questions, but clarified that he was unable to speak about any matters that had an ongoing investigation.

Commissioner A. Nguyen inquired if there were any reported crimes since OC Nightclub opened. Deputy Chief Upstill stated there were two calls for service where a report was taken, one for a burglary and the other for an intoxicated subject. He further clarified there were other calls for service but those calls were not reported on; and, that the statistics provided were from a period of March 2021 through March 2022.

CHAIR ANDERSON CLOSED THE PUBLIC COMMENT PERIOD.

Chair Anderson asked for staff to clarify an earlier statement made by Ms. Rains that the applicant had actually applied for a Type 47 alcohol license verses a Type 48 alcohol license. Planning Manager Ratkay stated that the applicant has applied for a Type 48 license as that was what has been approved by the CUP.

Ms. Rains returned to the podium to clarify her previous comment for the Commission. She offered that the applicant did indeed apply for a Type 48 license, by way of a relinquished Type 47 license for another business. She added that a Type 47 license means that you have a full restaurant, but a Type 48 is only the liquor license.

Chair Anderson inquired if the applicant will have a full service kitchen to have a Type 47. Planning Manger Ratkay stated that the applicant is not required to have a full kitchen since a Type 48 alcohol license was approved by the CUP. Associate Planner Kim further clarified that the relinquished Type 47 was from another business and will be converted to a Type 48 by the ABC for OC Nightclub's use.

Interim Community Development Director Kurita clarified that the application filed for the PCN was for a Type 48 alcohol license. She further clarified that she has confirmed, during her phone calls with the ABC, that they are upgrading the existing alcohol license Type 42 to a Type 48. She added that ABC wants the City to determine if a new PCN is to be issued, or if the existing PCN is valid to upgrade the license to a Type 48.

Chair Anderson stated that our former City Manager did issue a PCN previously for a Type 42 alcohol license; and, the City's PCN procedure had recently changed, so that new determination of a PCN falls to the Planning Commission.

Commissioner A. Nguyen stated that the CUP approved the use of a Type 48 alcohol license. He added that they Commission was only confirming something that was already approved.

Commissioner Pham inquired about the late communication item received at tonight's meeting. It was a document was distributed showing an open court case for David Vo and she wished to know more information about the case. Planning Manager Ratkay stated that late communication item was provided to the Commission and the staff just before the meeting started and we did not have additional information regarding that document. He further stated that the Commission may want consider the matter separately from the PCN.

Deputy City Attorney Porter shared that when the case goes before the ABC one of the things they take into consideration is compliance with applicable laws, so an open court case is something the ABC will certainly make a determination on. He stated that the applicant has to meet a number of requirements to be granted the Type 48 alcohol license and the PCN is only one of the requirements.

Commissioner Vu-Nguyen inquired if the Commission can wait for the ABC to make a determination. Planning Manager Ratkay stated the way the business and professions code is set up and the way that the City Council Resolution is set up is that it is the Planning Commission that needs make the determination. So the ABC is waiting for the Planning Commission's determination on the matter.

Commissioner Vu-Nguyen offered that she felt there was no need for two nightclubs so close together in a high crime area, she would not want that near her if she was a nearby resident. Chair Anderson offered that those concerns were addressed when the Conditional Use Permit was previously considered and approved to allowing the business to open. He offered the PCN was a separate issue.

Further discussion ensued about the options available to the Commission to take or not take action on the matter.

Commissioner A. Nguyen again stated that the CUP already approved operation as a nightclub with a Type 48 alcohol license. He offered that the ABC was only asking the Commission to confirm that prior decision and he did not see a concern approving the PCN for the Type 48 alcohol license.

Chair Anderson again stated that this was a unique situation as the applicant did not have an option to obtain the approved Type 48 license after his CUP was approved by the Planning Commission; and, now that a Type 48 license was available the Commission is being asked to confirm the public convenience or necessity of the Type 48 alcohol license. He further offered that this item would not have come back to the Planning Commission before the City changed the way a PCN is processed.

Further discussion ensued about the definition of a public convenience or necessity and the Commissions role in making that determination.

Motion: It was moved by Commissioner Vu-Nguyen, and seconded by Commissioner Pham, to deny the request for a determination of Public Convenience or Necessity Finding for a Type 48 alcohol license for Case No. 2019-239 and bring a new resolution of denial back to the Commission for review at a later date.

Substitute Motion: It was moved by Commissioner A. Nguyen to approve the request for a determination of Public Convenience or Necessity Finding for a Type 48 alcohol license for Case No. 2019-239. The motion failed for a lack of a second.

The motion to deny the request carried (4-0) with the following vote:

AYES:	ANDERSON, NGUYEN, PHAM, VU-NGUYEN
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

Planning Manager Ratkay and Deputy City Attorney Porter offered that the 15-day appeal period would begin after a vote is taken when the resolution for denial is brought back before the Planning Commission.

11. REPORTS – None

12. MATTERS FROM STAFF

Planning Manager Ratkay offered that the Planning Division was in the process hiring new staff members to replace some vacancies within the Division. He thanked the staff present at the meeting from various departments, thanked the Deputy City Attorney, thanked Associate Planner Kim, and thanked the Planning Commission for their patience with the virtual meetings conducted for the past two years and all the hard work they do for the community.

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

Commissioner A. Nguyen thanked his fellow commissioners and staff. He added that it was an incredible first meeting for him.

Commissioner Vu-Nguyen welcomed Commissioner A. Nguyen to the commission and stated that she hoped to get to know him better. She stated that she had brought some sandwiches and placed them in the Council Conference Room in case anyone was hungry.

Commissioner Pham thanked staff and stated that it was nice to back to in-person meetings.

Chair Anderson agreed with Commissioner Pham that it was nice to be back to in-person meetings.

14. ADJOURNMENT

The meeting was adjourned at 7:40 p.m. to a regular meeting on Wednesday, May 4, 2022 at 6:30 p.m.



Don Anderson
Planning Commission Chair



Steven Ratkay
Planning Commission Secretary

Prepared by:



Shelley Stevens
Senior Administrative Assistant