



**PLANNING COMMISSION
Minutes of the Regular Meeting
In-Person Hybrid (Teleconference/Web Conference)
8200 Westminster Boulevard
Westminster, CA 92683
May 4, 2022
6:30 p.m.**

Pursuant to the State of California Executive Order N-29-20 related to Coronavirus (COVID-19), the Planning Commission of the City of Westminster, California convened on May 4, 2022, at 6:30 p.m. via In-Person Hybrid (teleconference/Web conference), at the City Council Chambers, 8200 Westminster Boulevard, Westminster, California.

1. PLANNING COMMISSION ROLL CALL:

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

PRESENT: ANDERSON, A. NGUYEN, Q. NGUYEN, PHAM, VU-NGUYEN
ABSENT: NONE

STAFF PRESENT:

Steven Ratkay, Planning Manager; Debra Kurita, Interim Community Development Director; Christopher Wong, Senior Planner; Sandie Kim, Associate Planner; Baron Bettenhausen, Deputy City Attorney; Michael Son, Housing Specialist; Shelley Stevens, Senior Administrative Assistant.

2. SALUTE TO FLAG

Chair Anderson led the salute to the flag.

3. ELECTION OF VICE CHAIR

Motion: It was moved by Commissioner Pham, and seconded by Chair Anderson, to approve Commissioner Pham to serve in the position of Vice Chair of the Planning Commission. The motion carried (5-0) with the following vote:

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

4. REPORT FROM PLANNING SECRETARY ON LATE COMMUNICATION ITEMS

Planning Manager Ratkay reported that two late communications were received for item 10.1, and, offered that the late communication items were available to the public

on the City's website and in a binder located in the entrance of the City Council Chambers.

5. EX PARTE COMMUNICATIONS

Chair Anderson disclosed that he had a conversation with Commission Vu-Nguyen involving the reason item 10.1 was coming before the Commission again.

6. SPECIAL PRESENTATIONS - None

7. ORAL COMMUNICATIONS

Chair Anderson explained that in addition to any general oral communications we were also accepting comments under oral communications for anyone wishing to provide comments on item number 10.1.

Zach Skidelsky, attorney representing the applicant for item 10.1, spoke about potential job creation by OC Nightclub and that the business had met the requirements of the Alcoholic Beverage Control (ABC); and, that the only thing holding the business back is waiting on the determination for a Public Convenience or Necessity (PCN).

Linh Nguyen, resident of Westminster and a former City planning commissioner, spoke about the approval of the Conditional Use Permit (CUP) for Item 10.1, the owner's compliance with ABC's notice postings for the PCN, and potential litigation associated with the decision to deny the PCN.

David Vo, applicant and owner of OC Entertainment (Item 10.1), requested approval of the PCN due to the CUP already being approved for Type-48 alcohol service. He explained that a Type 48 license was not available at the time of the CUP approval, so he opted to obtain a Type 42 license. He added that the ABC has already approved his application and he has complied with the ABC's noticing requirements and saw no reason for the Planning Commission to deny the request for a PCN determination.

Don Johnson, resident of Long Beach, representing the properties adjacent the OC Nightclub (Item 10.1), spoke about CUP violations, lack of parking for a nightclub use, lack of security during events, and added that the location was not designed to have a nightclub as it was designed for a retail use.

Connie Nguyen, owner of an adjacent business Bleu Restaurant and Dancing, asked the Commission to support the denial of the PCN (Item 10.1). She spoke about the CUP and ABC violations and opined that Mr. Vo had opened his business with a Type 42 license as a cheaper option with the intent of circumventing the law and selling hard liquor anyway.

Duc Huy, resident of Westminster representing the owner as his architect (Item 10.1), spoke about the previous April 20, 2022 meeting's handling of public comments. He

stated that after the public comment period was closed, additional conversations with the public continued. He stated that he also wanted to comment and offered a raised hand in the audience, but was not acknowledged. For this reason, he opined representatives of Mr. Vo had not been treated fairly at the last meeting. He cautioned the Commission not to make decisions on feelings but based on law and facts.

Tony Buy, resident of Westminster, spoke about the experience levels of individual commissioners and opined that some commissioners may not understand the reason for PCN determination prior to voting (referring to Item 10.1). He offered that the high crime designation in the area and parking issues are created by the adjacent Bleu Restaurant and Dancing, not OC Entertainment.

Dao Tran, resident of Garden Grove, was present to support OC Nightclub (Item 10.1) and agreed with other comments in favor. She offered that the previously approved CUP should have had a PCN included when the request was approved in 2020. She opined that there was a political agenda in denying the PCN and it opened the City up for a lawsuit.

Vicky Nguyen, resident of Westminster, was present to support OC Nightclub (Item 10.1) and offered that there was no reason to deny the PCN determination since OC Nightclub has been approved by a CUP to operate with an ABC Type 48 liquor license. She felt that denying the PCN would open the City up for a lawsuit.

Thinh Nguyen, resident of Westminster, was present to support OC Nightclub (Item 10.1) and urged the Commission to approve the PCN and offered there was no valid reason to deny the PCN.

Terry Rains, resident of Westminster, was present in opposition to OC Nightclub (Item 10.1). She offered a summary of known business violations and a list of the associated Codes or CUP conditions that were violated. She opined with the business history provided, it was not only grounds to deny the PCN but to also initiate a revocation of the CUP. She concluded that there was inconsistent procedure during this meeting as in the April 20, 2022 meeting public comment was taken during the business item and during today's meeting all public comments were taken during Oral Communications. She offered that she had two five minute speeches prepared and that she was robbed of the time she believed she would be given.

Monique Nguyen, was present to support OC Nightclub (Item 10.1). She opined that the decision not to approve the PCN was the wrong decision and not supportive of small business growth. She stated that the Type 48 license was already approved in the CUP.

Phi Phi Ta, resident of Westminster, was present to support OC Nightclub (Item 10.1). She offered some of the business history and asked the Commission to approve Type 48 license.

8. APPROVAL OF MINUTES – April 20, 2022

Motion: It was moved by Vice Chair Pham, and seconded by Commissioner Q. Nguyen, to approve the minutes of April 20, 2022 as presented. The motion carried (5-0) with the following vote:

AYES: ANDERSON, A. NGUYEN, Q. 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) was heard on April 20, 2022. A Resolution to deny the determination of Public Convenience and Necessity for an Alcohol License Type 48 is to be reviewed during this meeting.

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 adopt a resolution entitled, "A Resolution of the Planning Commission of the City of Westminster Determining That the Public Convenience or Necessity (PCN) Issued in June 2021 for an Alcohol License to Serve Beer and Wine (Type 42) is not 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)."

Christopher Wong provided a brief verbal presentation to the Commission.

Commissioner A. Nguyen offered that the CUP approved on October 20, 2020, included the sale distilled spirits and he did not see any legal reason to revise that approval or deny the PCN.

Commissioner Q. Nguyen offered that she believed there was a precedence to treat

all businesses equitably and fairly. She added based on the similarity of other businesses obtaining a Type 48 liquor license, she opined that OC Nightclub should have a chance to operate.

Vice Chair Pham offered that when she volunteered for this job as a planning commissioner, it was to serve the community and she vowed that she had to do the right thing. She offered that two nightclubs next to each other created a problem for nearby residents. She stated that she looks at the whole picture when she bases her decisions.

Chair Anderson offered that the Commission had received a lot of information about the request from the community and from the staff. After considering all the information, he believed that issuing a PCN for a Type 48 would not benefit the public. He further explained that is really what is before the Commission is to determine if a PCN would be a benefit to the public.

Commissioner Vu-Nguyen offered that she was there to serve the community and she was required to take two hours of ethics training once she assumed her position as a planning commissioner. All the decisions she makes is for the City, it was not personal, and, with safety in mind, two adjacent nightclubs in a high crime area, right next to residential is not safe for the residents.

Commissioner A. Nguyen offered that the decision before the Commission tonight is to determine if the PCN for Type 42 is valid for the Type 48 license, it does not have anything to do with the close proximity of the two businesses. He restated that with the CUP already approved for a Type 48 and there was no legal reason not to grant the PCN. He felt that not determining the existing PCN was also valid for a Type 48 license may put the City in legal jeopardy.

Chair Anderson offered that a Public Convenience or Necessity determination was truly finding that distilled spirit service at this location was either convenient or necessary. The decision of the PCN is independent of the CUP. The Planning Commission is required to make a finding if the Type 48 is appropriate at this time. He stated that he felt the resolution before the Commission was appropriate.

Motion: It was moved by Commissioner A. Nguyen, and seconded by Commissioner Q. Nguyen, to deny the staff resolution and also determine that the existing Type 42 Public Convenience or Necessity finding was also valid for a Type 48 alcohol license for Case No. 2019-239. The motion failed (2-3) with the following vote:

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

Motion: It was moved by Chair Anderson, and seconded by Commissioner Vu-Nguyen, to approve the resolution, as recommended, to determine that the Public Convenience or Necessity (PCN) issued in June 2021 for an alcohol license to serve beer and wine (Type 42) is not valid and applicable for an alcohol license to serve beer, wine, and distilled spirits (Type 48) on property located at 14190 Beach Boulevard. The motion carried (3-2) with the following vote:

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

11. REPORTS – None

12. MATTERS FROM STAFF

Planning Manager Ratkay congratulated Vice Chair Pham on her new position. He shared that the planning staff recently attended a legislative update regarding some new laws working their way through Sacramento. He offered much of the new legislation was related to housing laws. He thanked the staff, Deputy City Attorney Bettenhausen, and the Commission for their efforts.

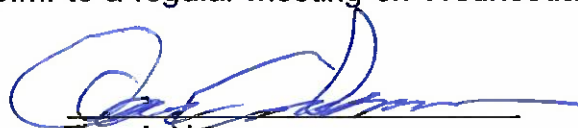
13. MATTERS FROM THE PLANNING COMMISSION – INCLUDING AB1234 REPORTS WHEN REQUIRED

Vice Chair Pham, Commissioner A. Nguyen, and Commissioner Q. Nguyen thanked staff for their hard work. Commissioner Q. Nguyen stated she was glad to see everyone in person.

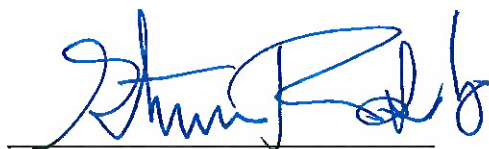
Commissioner Vu-Nguyen expressed her appreciate for staff and her fellow commissioners who offer assistance when she had questions.

14. ADJOURNMENT

The meeting was adjourned at 8:04 p.m. to a regular meeting on Wednesday, May 18, 2022 at 6:30 p.m.

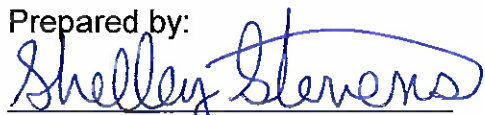


Don Anderson
Planning Commission Chair



Steven Ratkay
Planning Commission Secretary

Prepared by:



Shelley Stevens

Senior Administrative Assistant