CITY COUNCIL AGENDA REPORT

MEETING DATE: MAY 15, 2012 ITEM NUMBER:

SUBJECT: APPEAL AND REVIEW OF ZONING APPLICATION ZA-12-10 MINOR CONDITIONAL USE PERMIT FOR A DRIVE-THROUGH COFFEE SHOP
450 EAST 17TH STREET

DATE: MAY 3, 2012

FROM: DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MEL LEE, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611
mel.lee@costamesaca.gov

RECOMMENDATION:

Uphold, reverse, or modify the Planning Commission's decision to approve Minor Conditional Use Permit ZA-12-10 to convert a former credit union building containing a drive-through lane that accommodated a drive-up automated teller machine into a drive-through coffee shop for Starbucks Coffee and another food use.

BACKGROUND

Project Site/Environs

The property is located on the north side of East 17th Street, between Tustin Avenue and Irvine Avenue, and contains a 5,800 square-foot building (formerly Schools First Federal Credit Union) and 30 on-site parking spaces. The building has an existing 160-foot deep drive-through lane that accommodated a drive-up automated teller machine (since removed). The property is zoned C1 (Local Business District) and has a general plan land use designation of General Commercial. Per the City's Zoning Code, proposed eating and drinking establishments with a drive-through require approval of a minor conditional use permit.

The property abuts residentially-zoned properties at the rear (north) property line. The existing building is setback approximately 170 feet from the rear property line and the existing drive-through lane is setback approximately 140 feet from the rear property line. The property is separated at the rear by an existing 7 foot high wall and an existing 14-foot wide landscape planter, where several mature diseased eucalyptus trees were removed in December 2011.

PLANNING APPLICATION SUMMARY

Location: 450 E. 17th Street Application: ZA-12-10

Request: Convert a former credit union building containing drive-through lane that accommodated a drive-up automated teller machine into a drive-through coffee shop for Starbuck's and another food use.

SUBJECT PROPERTY:		**SURROUNDING PROPERTY:**	
Zone:	C1	North:	R1, single family residences
General Plan:	General Commercial	South:	Across E. 17th St., C1, commercial uses
Lot Dimensions:	126 FT x 300 FT	East:	C1, commercial uses
Lot Area:	35,317 SF	West:	C1, commercial uses
Existing Development:	Credit union building, drive-through lane, and surface parking		

DEVELOPMENT STANDARD COMPARISON

Development Standard	Required/Allowed	Proposed/Provided
Lot Size:		
Lot Area	12,000 SF	35,317 SF
Floor Area Ratio (FAR):	.20	.16
Building Height	2 Stories/30 FT	2 Stories/28 FT, 10 IN
Setbacks (Building)		
Front (E. 17th Street)	20 FT	15 FT (1)
Side (left/right)	15 FT/0 FT	25 FT/46 FT
Rear	58 FT	170 FT
Parking:		
Standard	38	40
Handicap	1	2
TOTAL	39 (2)	42 Spaces
Bike Racks	NA	1 (Proposed)
Drive-Through Lane Length	160 FT Min.	160 FT
NA = Not Applicable or No Requirement. (1) The property is legal nonconforming. (2) Established per shared parking study.		
CEQA Status	Exempt, Class 1 (Existing Facilities)	
Final Action	City Council	

ANALYSIS:

Minor Conditional Use Permit ZA-12-10

Minor Conditional Use Permit ZA-12-10 is for a proposed 2,356 square-foot Starbucks Coffee Shop with drive-through service. The remaining portion of the building, approximately 2,185 square feet, is proposed to be allocated for a future food tenant use; however, a specific tenant has not been identified at this time.

Outdoor patios oriented towards the front of the building (facing toward E. 17th Street) are proposed. The applicant also proposes remodeling the exterior of the building with contemporary architecture and materials.

In response to the public notices that were sent out for the proposed project, 5 letters in opposition were received (Attachment 7). The letters expressed concerns with potential, noise, odor, and traffic impacts. However, the Zoning Administrator approved the project on March 26, 2012 based on the following:

- The applicant contacted the neighbors directly abutting the property at the rear to inform them of the proposed project and to attempt to address their concerns.
- The applicant agreed to a condition of approval requiring the existing landscape planter at the rear of the property be re-landscaped with trees minimum 24-inch box size and other landscape materials to provide a visual barrier from the abutting residences (originally Condition number 12).
- The applicant is required to comply with the Zoning Code Development Standards for eating and drinking establishments within 200 feet of residential property, which are summarized in the below table:

TABLE 1

DEVELOPMENT STANDARDS FOR FOOD ESTABLISHMENTS WITHIN 200 FEET OF RESIDENTIALLY-ZONED PROPERTY
(a) All exterior lighting shall be shielded and/or directed away from residential areas.
(b) Outdoor public communication systems shall not be audible in adjacent residential areas.
(c) Trash facilities shall be screened from view and designed and located appropriately to minimize potential noise and odor impacts to adjacent residential areas.
(d) Outdoor seating areas shall be oriented away or sufficiently buffered from adjacent residential areas.
(e) For new construction, a landscaped planter area, a minimum of 5 feet in width, shall be provided as an additional buffer to adjacent residential areas.
(f) For new construction, all interior property lines abutting residentially-zoned property shall have a minimum 6 foot high masonry wall.
(g) Hours of operation for customer service shall not occur any time between 11:00 p.m. and 6:00 a.m.
(h) Truck deliveries shall not occur anytime between 8:00 p.m. and 7:00 a.m.

Source: Costa Mesa Zoning Code Section 13-49(a) through (h)

Appeal and request for review of by Planning Commission

On April 2, 2012, an appeal of the Zoning Administrator's decision was filed by Toby Walker, an adjoining property owner of the commercial property at 462 E. 17th Street. In the appeal, Mr. Walker states that the proposed project will adversely impact traffic circulation to his commercial property via an existing reciprocal access and parking easement. Additionally, a request for Planning Commission review of the project was filed by Council member Leece based on the aforementioned concerns raised by the residential neighbors (see April 23, 2012 Planning Commission Staff Report - Attachment 3).

The Planning Commission considered the project at their April 23, 2012 meeting. Although Mr. Walker submitted a request that the Commission continue the item to their May 14, 2012 meeting due to his inability to attend, the Commission decided on a 4 to 0 vote (Commissioner Dickson abstaining) to conduct the hearing at the request of the project applicant and due to the fact that Mr. Rob Hamers was in attendance at the meeting as Mr. Walker's representative.

During their deliberations, the Commissioners expressed the following opinions and points of view regarding the proposed project:

- The Commission noted that Mr. Walker's issues raised in the appeal with regard to the existing reciprocal access and parking easement were a civil matter between the property owners and was not under the purview of the Planning Commission.
- The Commission noted that the applicant's traffic consultant provided a point-by-point rebuttal of the issues Mr. Walker raised in the appeal with regard to potential adverse traffic impacts of the proposed project (see April 23, 2012 Planning Commission Supplemental Staff Report - Attachment 3).
- The Commission noted the applicant's agreement to comply with the recommended conditions of approval and code requirements listed in Table 1 of this report.
- The Commission noted that Condition of approval number 7 requires that prior to a second food use establishing in the building the applicant's traffic consultant will be required to validate the parking study in the form of real-time parking counts conducted within 90 days of Starbucks Coffee Shop being fully operational.
- The Commission noted that the applicant presented the following measures to address the potential adverse impacts raised by the adjoining residential neighbors:
    - The applicant indicated that the drive-through menu board will have adjustable volume levels to reduce noise impacts.
    - The applicant proposed a separate trash enclosure further away from the residents for the storage of food waste.
    - The applicant indicated that they will plant a row of trees at the rear of the property at the direction of Planning staff per a revision to Condition of approval number 12 (see discussion in next section).

Based on the above, the Commission upheld the Zoning Administrator's approval by a 4 to 0 vote (Commissioner Dickson abstaining).

Appeal and request for review of by City Council

On April 27, 2012, a request for City Council review of the project was filed by Council member Leece. On April 30, 2012 an appeal of the Planning Commission's decision was filed by Mr. Walker.

It should be noted that the City Council hearing is a **de novo hearing** in which the City Council may consider the project in its entirety.

De Novo Hearing

The purpose of this report is to highlight and/or clarify the evidence in the administrative record that was presented to the Planning Commission prior to its action to approve the proposed project. This report does not contain any new evidence that was not considered by the Planning Commission nor provides any further justification for the approval of the request.

During the hearing, an issue was raised as to whether or not trees could be re-planted within the rear landscape planter due to an existing 10-foot wide drainage easement. In response, the Commission modified the language in Condition of approval number 12 as follows:

> *Applicant shall work with staff to landscape the planter at the rear of the property in order to maximize the opportunity to provide a buffer for the residential properties including minimum 24-inch box size trees, subject to review and approval by the Planning Division Director.*

Staff met with the applicant and their landscape architect on April 25, 2012, and reviewed a revised, preliminary landscape plan that depicted a row of 24-inch box trees within the on-site landscape planter; a hedge planted next to the rear wall, along the residential property line; and low ornamental grasses planted throughout both the on-site planter and the drainage easement. The landscape architect proposes using non-deciduous trees that will provide dense screening between the site and adjoining residents. The City Engineer confirmed that the proposed planting, including the placement of the trees, is acceptable.

A link the online video of the Planning Commission hearing can be found at:

http://costamesa.granicus.com/ViewPublisher.php?view_id=4

ALTERNATIVES CONSIDERED:

As a de novo hearing, City Council has the following options in this case:

A. *Alternative A, Uphold Commission's Action:* Uphold the Commission's action with the conditions of approval as shown in the draft Council resolution.

B. *Alternative B, Reverse Commission's Action*: Deny the Commission's action. If the project were denied, the applicant could not submit substantially the same type of application for six months.

ENVIRONMENTAL REVIEW

The request has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.

If the request is denied, it is exempt from the provisions of CEQA Section 15270(a) for Projects Which Are Disapproved.

GENERAL PLAN CONFORMITY

With the recommended conditions of approval, the request will be consistent with surrounding uses, as specified in Objective LU-1F.2 of the General Plan Land Use Element.

LEGAL REVIEW:

The City Attorney's Office has reviewed the attached resolutions and approved them as to form.

CONCLUSION:

De novo literally translates to "anew," "afresh" or "a second time." A de novo hearing is essentially a new proceeding where the proposal is presented to the City Council for final consideration. In its decision making, Council is not restricted to the evidence that was previously presented to the Planning Commission. In this case, the City Council may uphold, reverse, or modify the discretionary decision of the Planning Commission.

MEL LEE, AICP
Senior Planner

KHANH NGUYEN
Interim Development Services Director

ATTACHMENTS:

1. Location Map and Plans
2. Draft City Council Resolutions
3. Appeal and Review Application And Attachments
4. Planning Commission Minute Excerpts
5. Planning Commission Reports And Attachments
6. Planning Commission Resolution
7. Correspondence

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Toby Walker
P.O. Box 8083
Newport Beach, CA 92658

450 East 17th Street Associates, LLC
1100 Newport Center Drive, #150
Newport Beach, CA 92660

David Harris
455 Cabrillo Street
Costa Mesa, CA 92627

Bob Small
465 Cabrillo Street
Costa Mesa, CA 92627

Ardy Hurst
451 Cabrillo Street
Costa Mesa, CA 92627

Jaime & Stephen MacLeod
461 Cabrillo Street
Costa Mesa, CA 92627

Rob Hamers
234 E. 17th Street, Suite 205,
Costa Mesa, CA 92627

Katie Arthur
400 Cabrillo Street
Costa Mesa, CA 92627

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