

**ATTACHMENT 2  
DRAFT RESOLUTIONS**

RESOLUTION NUMBER 12-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA APPROVING ZONING APPLICATION ZA-12-10 TO CONVERT AN EXISTING BUILDING INTO A DRIVE-THROUGH COFFEE SHOP AND ANOTHER FOOD USE**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by 450 East 17th Street Associates, LLC, requesting approval of Zoning Application ZA-12-10 to 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 Coffee and another food use;

WHEREAS, on March 26, 2012, ZA-12-10 was approved by the Zoning Administrator;

WHEREAS, on April 2, 2012 the approval of ZA-12-10 was appealed by a property owner and called up for review by a council member;

WHEREAS, on April 23, 2012, a duly noticed public hearing was held by the Planning Commission;

WHEREAS, on April 27, 2012, the Planning Commission's decision for ZA-12-10 was called up for review by a council member and appealed by a property owner on April 30, 2012;

WHEREAS, a duly noticed public hearing was held by the City Council on May 15, 2012.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the City Council hereby **APPROVES** ZA-12-10.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for ZA-12-10 and upon applicant's compliance with each and all of the conditions contained in Exhibit B as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 15th day of May, 2012.

\_\_\_\_\_  
ERIC BEVER  
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK OF THE  
CITY OF COSTA MESA

\_\_\_\_\_  
CITY ATTORNEY



## EXHIBIT A

### FINDINGS

- A. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Granting the minor conditional use permit will not allow a use, density or intensity that is not in accordance with the general plan designation for the property. Specifically, staff does not anticipate any parking impacts because the parking study prepared for the project has been reviewed by the City's Transportation Services Division, and they concur with the study methodology, suggested parking rates, and the consultant's conclusions regarding adequate parking. If the remaining space is occupied by a food use, zoning approval and business license authorization shall be contingent upon validation of the parking conclusions of the parking study prepared for the project. This validation shall be in the form of real-time parking counts conducted within 180 days of the coffee shop being fully operational. Additionally, if parking shortages or other parking-related problems arise, the landlord shall institute whatever reasonable operational measures necessary to minimize or eliminate the problem. Design of the drive-through lane provides adequate vehicle queuing and circulation. The building will be remodeled with contemporary architecture to provide a positive complement to the East 17<sup>th</sup> Street streetscape. Adverse impacts to residential uses will be minimized due to the requirement that the existing landscape planter at the rear of the property (adjacent to residential) be densely re-planted with trees to provide an additional buffer for residential properties.
- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (e) because:
1. The proposed use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
  2. Safety and compatibility of the design of the buildings, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
  3. The use is consistent with the General Plan designation because the project will not exceed the allowable General Plan intensity for the site.
- C. The project 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 under Section 15301, Class 1, Existing Facilities, of the CEQA Guidelines.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## EXHIBIT B

### CONDITIONS OF APPROVAL

- Plng. 1. The uses shall be limited to the type of operation as described in the staff report and conditions of approval. Any change in the operational characteristics of any use including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment subject to approval by the Zoning Administrator.
2. If parking shortages or other parking-related problems arise, the business operator shall institute whatever reasonable operational measures necessary to minimize or eliminate the problem. These measures may include identifying select parking spaces for short-term parking (i.e. 30 minutes, 1 hour, etc.), reserving certain parking spaces for the other tenant, and/or any other measures as deemed appropriate by the Development Services Director.
3. The use shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever reasonable security and operational measures are necessary to comply with this requirement.
4. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to commencement of the business. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
5. Prior to the grand opening of the coffee shop, the applicant shall submit an interim parking plan to the Planning Division for review and approval to ensure that adequate employee parking is available on-site or on at an authorized site through an agreement with its property owner. In addition, the plan shall indicate that employees shall be available to minimize any impacts to circulation on the adjacent streets and surrounding properties. This interim plan shall be in place for a minimum of 60 days during the "Grand Opening" and may be extended for an additional 30 days to meet customer demands as deemed appropriate by the Development Services Director. The interim plan shall be approved prior to issuance of certificate of occupancy.
6. After the Grand Opening period when the interim parking plan is no longer in place, employees of the fast food restaurant shall park on-site. Employee parking shall occur in any of the parking stalls on the property. Employee parking on the public streets fronting residential properties shall be considered a violation of the terms of approval of the minor conditional use permit. If repeated violations occur, the Development Services Director shall have the discretion to require employee parking spaces be assigned on the property, or to require other appropriate measures to ensure on-site employee parking.
7. Zoning approval and business license authorization for a proposed establishment where food and beverages are served shall be contingent upon validation of the parking conclusions of the March 1, 2012 parking

- study. This validation shall be in the form of real-time parking counts conducted within 90 days of the coffee shop being fully operational.
8. The conditions of approval for ZA-12-10 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
  9. No modification(s) of the approved building elevations including, but not limited to, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process such as a minor design review or a variance, or in the requirement to modify the construction to reflect the approved plans.
  10. No exterior roof access ladders, roof drain scuppers, or roof drain downspouts are permitted.
  11. It is recommended that the project incorporate green building design and construction techniques where feasible. The applicant may contact the Building Safety Division at (714) 754-5273 for additional information.
  12. 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.
  13. The property owner or applicant shall install bike racks for patrons and employees on the site. The bicycle racks shall be decorative in design. This condition shall be completed prior to final occupancy/start of business, under the direction of the Planning and Building Divisions.
  14. The applicant shall work with staff to reconfigure the proposed outdoor patios to minimize the encroachment into the required street setback landscape planters, subject to approval by the Planning Division.
  15. Transformers, backflow preventers, and any other approved above-ground utility improvement shall be located outside of the required street setback area and shall be screened upon view, under direction of Planning staff. Any deviation from this requirement shall be subject to review and approval of the Development Services Director.
  16. City understands that the adjacent property may hold certain easement rights over the property that is the subject of this decision. The city is not in a position to determine the legal rights between the two parcels with respect to this easement. Accordingly, the City's approval is made expressly subject to the project being in full compliance with any existing duties, rights and obligations set forth in any easements or other encumbrances recorded against the property. Any construction initiated by applicant is performed at applicant's own risk that it may be inconsistent with existing easements and encumbrances.

RESOLUTION NUMBER 12-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA DENYING ZONING APPLICATION ZA-12-10 TO CONVERT AN EXISTING BUILDING INTO A DRIVE-THROUGH COFFEE SHOP AND ANOTHER FOOD USE**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by 450 East 17th Street Associates, LLC, requesting approval of Zoning Application ZA-12-10 to 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 Coffee and another food use;

WHEREAS, on March 26, 2012, ZA-12-10 was approved by the Zoning Administrator;

WHEREAS, on April 2, 2012 the approval of ZA-12-10 was appealed by a property owner and called up for review by a council member;

WHEREAS, on April 23, 2012, a duly noticed public hearing was held by the Planning Commission;

WHEREAS, on April 27, 2012, the Planning Commission's decision for ZA-12-10 was called up for review by a council member and appealed by a property owner on April 30, 2012;

WHEREAS, a duly noticed public hearing was held by the City Council on May 15, 2012.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the City Council hereby **DENIES** ZA-12-10.

**PASSED AND ADOPTED this 15th day of May, 2012.**

\_\_\_\_\_  
ERIC BEVER  
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK OF THE  
CITY OF COSTA MESA

\_\_\_\_\_  
CITY ATTORNEY



## EXHIBIT A

### FINDINGS

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
  - 1. A compatible and harmonious relationship does not exist between the proposed use and existing buildings, site development, and uses on surrounding properties.
  - 2. The proposed use is not consistent with the General Plan or Redevelopment Plan.
  
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is not compatible with developments in the same general area. Granting the minor conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Granting the minor conditional use permit will allow a use, density or intensity that is not in accordance with the general plan designation for the property.
  
- C. The Costa Mesa City Council has denied Zoning Application ZA-12-10. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines' Section 15270(a) CEQA does not apply to this project because it has been rejected and will not be carried out.
  
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**ATTACHMENT 3  
REVIEW AND APPEAL REQUESTS**

CITY OF COSTA MESA  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

RECEIVED  
CITY CLERK  
FEE: \$

2012 APR 27 PM 3:42

APPLICATION FOR REVIEW, APPEAL OR REHEARING

Applicant Name Wendy Leece, Councilwoman

Address \_\_\_\_\_

Phone \_\_\_\_\_ Representing\* \_\_\_\_\_

REQUEST FOR:  REVIEW\*\*       APPEAL       REHEARING

Decision of which review, appeal or rehearing is requested: (give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) April 23, 2012 decision by Planning Commission to approve Starbucks @ 450 E. 17th St.

Decision by: \_\_\_\_\_

Reasons for requesting review, appeal or rehearing: More than 60 residents, most of them residents of Cabrillo Street have written letters to the City Council opposing the drive-thru aspect of the proposed Starbucks. Safety, noise, traffic problems, quality of life for residents in the surrounding neighborhood, pollution, negative environmental impacts, negative impact to property values are cited by residents as reasons to appeal the decision to include a drive-thru. Residents state they support a Starbucks and "possibly" a restaurant, but they oppose the drive-thru. "It is not reasonable to equate the volume of traffic nor operational hours from a bank/credit union with a Starbucks," residents stated. Also, a "wall of trees" against the Cabrillo Street residents property line to attenuate noise is in question.

Date: 4/27/12 Signature: Wendy Leece

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:  
If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

\* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.  
\*\* Review may be requested only by City Council or City Council Member  
Costa Mesa/Forms 1/Application for Review-Appeal-Rehearing

REC'D APR 26 2012

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

- **Safety,**
- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic nor operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

We support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

Vicki S. Wadman  
*VSWadman*

447 Cabrillo St.  
Costa MESA

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

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We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

*John M. Hanley*  
*Virginia G. Hanley*  
*John M. Hanley*  
*Virginia C. Hanley*

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

*Kathy SchAAF* KATHY SCHAAF  
455 CABRILLO ST.  
COSTA MESA, CA 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

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We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

*Arden Hurst*  
451 Cabells St.  
Costa Mesa, CA

949-642-6849

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

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Sincerely,

*Kevin B. Carr*  
Kevin B Carr  
421 Cabrillo St  
CM 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,



NORMAN W. BATCHELDER

126 E. 16TH ST.

COSTA MESA, CA 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

*RANDY NELSON*  
*Randy Nelson*  
1634 CHAYS WAY  
COSTA MESA

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

Buzz JACOBS  
*[Handwritten signature]*

1634 OHMS WAY  
COSTA MESA CA 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

*George Murby*

*GARY A. MURBY*

*1639 OAKS WAY COSTA MESA*

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

*Jean A. Boetto*      Jean A. Boetto  
2507 Fordham Drive  
Costa Mesa, CA 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

MIKE Hardin  
1725 Monrovia Ave B1  
Costa Mesa, Ca 92627

Mike Hardin 4/24/12

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

- **Safety,**
- **Noise,**
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Sincerely,

FRANK D. MOORE II

327 "D" E. 18<sup>th</sup>A

COSTA MESA CA

92627

37

Frank D Moore II

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

WICKHAM HAWENS  
327 E. 18TH ST UNIT E  
COSTA MESA CA 92627

38 Wickham Hawens

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

*Jerry Ghazizadeh*  
Jerry Ghazizadeh  
393 E. 17<sup>th</sup> St.  
Costa Mesa Ca 92627



April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

*Brian Gowdy*

BRIAN GOWDY

1531 HIGHLAND DR

NB 92660

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

  
202 Balboa  
Balboa Island

April 24, 2012

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City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

Jim Chapin  
393 E. 17<sup>th</sup> St

April 24, 2012

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City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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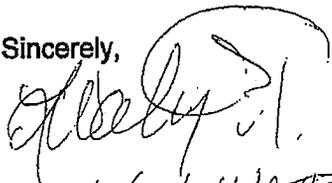
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Sincerely,

 4-25-12  
ALAN J. WATERFIELD  
2636 EDEN #2  
C.M., CA 92627

April 25, 2012

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal and to vote against the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

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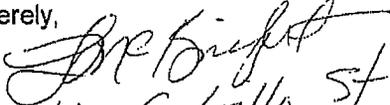
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Sincerely,

  
410 Cabrillo St  
Costa Mesa, CA

April 25, 2012

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Sincerely,

George O'Neil  
416 Cabillo St.  
Costa Mesa

April 25, 2012

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Sincerely,

*Bonnie O'Nan*  
*416 Cabrillo St.*  
*C.M. 92627*

April 25, 2012

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Sincerely,

R. Lynn Hayes Burkart  
406 Caballo  
Costa Mesa, Ca  
92627

April 25, 2012

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400 Cabrillo St.  
Costa Mesa CA 92627

April 25, 2012

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Sincerely,

Margaret Hodges  
420 Cabrillo ST.  
Costa Mesa, Calif. 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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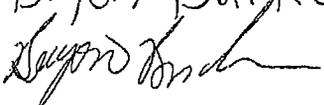
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Sincerely,

Bryon Barker  


406 Lenwood Dr.  
Costa Mesa, CA 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

PATTI & BUZZ BARKER

406 LENWOOD DR  
COSTA MESA CA 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

David Nauer



431 Cabrillo St

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

Allison and Scott Deffen

54

407 Cabrillo St.

April 24, 2012

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City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

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Sincerely,

David Covina

Fred Castro

417 Cabrillo St

April 24, 2012

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P. O. Box 1200  
Costa Mesa, CA 92628-1200

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- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

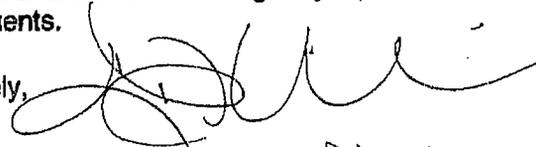
While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic nor operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

We support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,



Cameron Williams  
437 CABRILLO ST

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

- **Safety,**
- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic nor operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

We support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

*Dwain Pautsch*

Dwain Pautsch  
341 NASSAU RD  
COSTA MESA, CA 92626  
714-557-8087

April 25, 2012

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal and to vote against the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

- **Safety,**
- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic or operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

We support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

We ask that you do appeal and do NOT this Planning Commission decision to allow the drive through as planned as soon as possible. We have many neighbors who are willing to fight against the current Planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

*Katie Arthur*  
400 Cabrillo St.  
CM, 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

- **Safety,**
- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic nor operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

We support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,



2542 ELDER AVE

COSTA MESA CA 92627  
59

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

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- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic nor operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

We support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

  
VAN HAZEWINDEL  
49 GLOUCESTER DR  
COSTA MESA, CA

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

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- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic nor operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

We support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely, Taylor Page



2350 Santa Ana Ave Apt A  
Costa Mesa, CA 92627

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

- **Safety,**
- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic nor operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

We support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

*Bryce Page*

*3350 SANTA AVE  
COSTA MESA CA 92627  
UNIT "A"*

*62*

April 24, 2012

The Honorable City Council  
City of Costa Mesa  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

We are writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 East 17<sup>th</sup> Street. We ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

- **Safety,**
- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

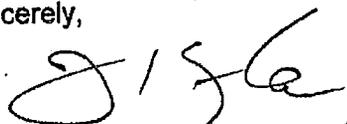
While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic nor operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

We support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

We ask that you appeal this Planning Commission decision as soon as possible. We have many neighbors who are willing to fight against the current planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

  
Jeff Kymala  
1637 Briar Rose  
Costa Mesa CA 92626  
63

1893 Parkview Circle  
Costa Mesa, CA 92627-4536  
Phone: (949) 642-2841  
email: [mamalili@pacbell.net](mailto:mamalili@pacbell.net)

REC'D APR 27 2012

April 26, 2012

City Council of the City of Costa Mesa  
P.O. Box 1200  
Costa Mesa, CA 92628-1200

To the Honorable Mayor and Members of the City Council:

We are writing to ask for your help and support to reverse the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive-through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 17<sup>th</sup> Street. We ask that you reverse the Planning Commission decision and deny the drive-through aspect of the proposed business.

Many of our fellow residents feel this should be appealed based on the following:

- **Safety,**
- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

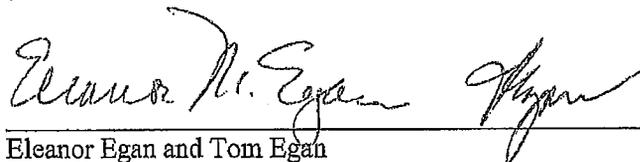
While a drive-through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic or operational hours from a bank/credit union with a Starbucks.

Further, it now appears that the developer may not be able to keep its promise to plant a "wall of trees" against the wall that abuts the Cabrillo residents' property lines.

We support Starbucks and possibly a restaurant moving into the proposed address; but, *we are strongly opposed to a drive through being permitted here for the reasons above.*

We ask that you reverse this Planning Commission decision and deny the drive-through at this location. Many neighbors who vehemently oppose the Planning Commission's decision and are counting on you, our elected officials, to support them, your voting constituents.

Very truly yours,

  
Eleanor Egan and Tom Egan

REC'D APR 27 2012

25 April 2012

The Honorable City Council  
City of Costa Mesa  
P.O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Esteemed Mayor and Council Members:

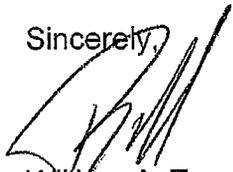
I am writing to ask for your help and support to appeal the decision by the Planning Commission made Monday night, 23 April 2012 that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 am – 11:00 pm, at 450 East 17<sup>th</sup> Street. I ask that you appeal the Planning Commission decision and deny this drive-through altogether.

As a frequent user of 17<sup>th</sup> Street, I feel the already unsatisfactory traffic flow will be negatively impacted by a "string of cars" extending onto 17<sup>th</sup> Street waiting for their morning coffee.

I support a Starbucks and possibly a restaurant moving into the proposed address; but, am strongly opposed to a drive through being permitted here for the reasons above.

I ask that you appeal this Planning Commission decision as soon as possible.

Sincerely,



William A. Tassio  
1500 Antigua Way  
Newport Beach, CA 92660

WAT: mle

SB42512

65

April 26, 2012

Dear Costa Mesa Mayor Erik Bever and Council Members:

I am writing to ask for your help and support to appeal and to vote against the decision by the Planning Commission made Monday night, April 23, 2012, that allows a drive through operation at a proposed Starbucks, with hours of operation between 6:00 a.m. – 11:00 p.m., at 450 17<sup>th</sup> Street. I ask that you appeal the Planning Commission decision and deny this drive-through altogether.

Many of our fellow residents feel this should be appealed based on the following:

- **Safety,**
- **Noise,**
- **Traffic problems,**
- **Quality of Life** for residents in the surrounding neighborhood,
- **Pollution/Negative environmental impact,**
- **Negative impact to property values.**

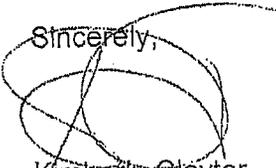
While a drive through window was in place for the former tenants, a bank and then credit union, it is not reasonable to equate the volume of traffic or operational hours from a bank/credit union with a Starbucks.

Further, the developer made promises that they may not be able to keep related to a "wall of trees" against the wall which backs up to the Cabrillo resident's property line.

Local residents support Starbucks and possibly a restaurant moving into the proposed address; but, we are strongly opposed to a drive through being permitted here for the reasons above.

I stand with the residents who will be directly impacted by your decision and ask that you do appeal and do NOT support this Planning Commission decision to allow the drive through at this location. We have many neighbors who are willing to fight against the current Planning Commission's decision and we are counting on you, our elected officials, to support us, your voting constituents.

Sincerely,

  
Kimberly Claytor  
2184-C Miner Street  
Costa Mesa, CA 92627

April 19, 2012

Councilmember Wendy Leece  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Ms. Leece:

Our family resides right behind Morri's flowers and very close to the Little Knight. Somehow we weren't informed about the potential drive through project in the former Teacher's Credit Union. Please don't allow another bar or food service establishment to back-up to our neighborhood.

We recently completed major improvement to our back yard to enjoy the warm summer evenings. I don't see this as a positive addition to the area.

Sincerely,



Vicky and Darren Wadman

cc: Via e-mail Planning Commission

RECEIVED  
CITY CLERK



City of Costa Mesa

2012 APR 30 PM 2:49

CITY OF COSTA MESA  
BY \_\_\_\_\_

- Appeal of Planning Commission Decision/Rehearing: \$1,220.00
- Appeal of Zoning Administrator/ Building Official / Fire Marshal / Staff Decision: \$690.00

**APPLICATION FOR APPEAL, REHEARING, OR REVIEW**

Applicant Name\* TOBY WALKER  
 Address P.O. Box 8083, Newport Beach, CA 92658  
 Phone 949-644-7058 Representing Self

REQUEST FOR:  REHEARING  APPEAL  REVIEW\*\*

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

*APPROVAL of zoning Application ZA-12-10, 450 E. 17th Street*

Decision by: \_\_\_\_\_  
Reasons for requesting appeal, rehearing, or review:

*See Attached. Additional Appeal documents forthcoming.*

Date: 04-26-2012 Signature:

\*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.  
\*\*Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:

68

### **Background**

For 30 years, both 450 and 462 E. 17<sup>th</sup> Street have had low demand banking institutions and other low demand activities. In 1982, the two property owners recognized that 462 E. 17<sup>th</sup> Street needed access over 450 E. 17<sup>th</sup> Street and an ingress-egress and parking easement over 450 E. 17<sup>th</sup> Street was granted to 462 E. 17<sup>th</sup> Street by document recorded as Instrument No. 82-297213 of Official Records of Orange County.

According to the easement, ingress and egress is granted through a 20-foot wide strip and the grant also includes the use of three specific parking spaces on 450 E. 17<sup>th</sup> Street. The limits of said easement are shown on the attached copy of the proposed grading plan for 450 E. 17<sup>th</sup> Street.

### **Current Proposal**

The applicant for 450 E. 17<sup>th</sup> Street, Burnham USA, is proposing to convert a bank with drive through into a coffee shop with drive through while converting the remaining building square footage into future restaurant use. The applicant provided a traffic study that concludes there will be three surplus parking spaces with these uses.

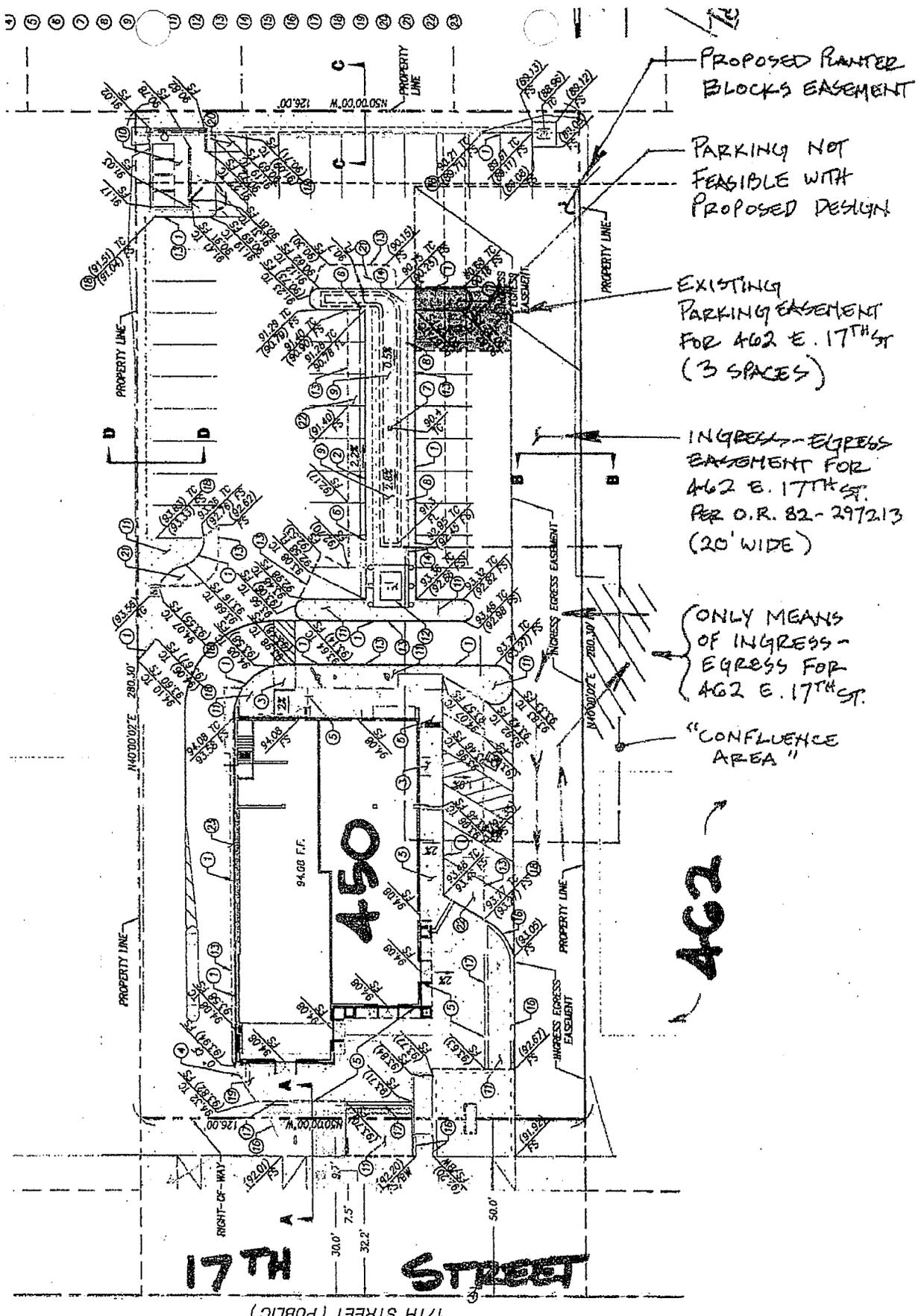
### **Grounds for Appeal**

The following issues have not been satisfactorily resolved and it is hereby requested the City withdraw its approval of zoning application ZA-12-10:

1. The owner of 450 E. 17<sup>th</sup> Street has never offered the owner of 462 E. 17<sup>th</sup> Street a modification to the existing access and parking easement, therefore, if the development is approved in its current configuration, 462 E. 17<sup>th</sup> Street tenants will not be able to park in the area specified in the easement and there will be a planter blocking use of the ingress lane. No resolution of this issue has been proposed.

2. Of critical importance, the current site plan causes all of the following ingress-egress activities to simultaneously occur in the same area, thereby causing a "confluence" of conflicting vehicle movements:
  - a. Two-way ingress and egress in the 20-foot wide easement.
  - b. Cars and delivery trucks entering the 450 E. 17<sup>th</sup> Street site crossing to the left through the egress lane to enter angled parking.
  - c. Cars and delivery trucks backing out of the angled parking spaces through the egress lane.
  - d. Cars in the drive through lane queue standing and occupying the middle of the confluence area.
  - e. Cars and delivery trucks entering and exiting 462 E. 17<sup>th</sup> Street in this same confluence area in the limited area allocated for this use. This is the only means of ingress and egress for cars and other vehicles to access the parking area for 462 E. 17<sup>th</sup> Street.
3. With the expected traffic generated from the applicant's proposed food service establishments, which have high traffic volumes, it is likely there will occur a standstill condition and an inability to maneuver.
4. The traffic study does not address the confluence area, which is a critically important consideration for continuing successful use of each parcel.
5. Fire department access and response time is of concern because of the impact of the confluence area.
6. There is also the possibility that a change of use for 362 E. 17<sup>th</sup> Street will increase the demand on the ingress-egress easement and confluence area. Whereas 350 E. 17<sup>th</sup> Street is considering a more upscale and active use, the use and traffic study should include parallel improvements to 462 E. 17<sup>th</sup> Street.
7. There is the possibility that the standstill condition will cause cars and delivery trucks to wait on 17<sup>th</sup> Street until space occurs for ingress.

#####



PROPOSED PAINTED  
BLOCKS EASEMENT

PARKING NOT  
FEASIBLE WITH  
PROPOSED DESIGN

EXISTING  
PARKING EASEMENT  
FOR 402 E. 17TH ST  
(3 SPACES)

INGRESS-EGRESS  
EASEMENT FOR  
402 E. 17TH ST.  
PER O.R. 82-297213  
(20' WIDE)

ONLY MEANS  
OF INGRESS-  
EGRESS FOR  
402 E. 17TH ST.

"CONFLUENCE  
AREA"

402

17TH STREET

17TH STREET (PUBLIC)

**ATTACHMENT 4  
PLANNING COMMISSION MINUTE  
EXCERPTS**

2. **Application No.:** ZA-12-10  
**Site Address:** 450 East 17th Street  
**Applicant:** 450 East 17th Street  
Associates, LLC  
**Zone:** C1  
**Project Planner:** Mel Lee  
**Environmental  
Determination:** Exempt

**Description:**

The applicant is proposing Minor Conditional Use Permit ZA-12-10 to 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 Coffee and another food use.

The Zoning Administrator's approval of ZA-12-10 was appealed by a property owner (Toby Walker) and called up for review by a council member (Wendy Leece).

There was a request from the Appellant to continue this item to the Planning Commission meeting of May 14, 2012.

Commissioner Dickson recused himself due to a conflict of interest.

**PUBLIC COMMENTS:**

Rob Hamers, representing Appellant Toby Walker, asked to continue the item for the Planning Commission meeting of May 14, 2012.

Applicant Bryon Ward, Burnham Ward Properties, stated that to postpone the decision would put their project in jeopardy. He expressed that Mr. Walker's concerns are civil in nature and not Planning Commission matters.

Jaime MacCleod, resident, requested that the Commission move the item to the May 14, 2012 meeting.

Katie Arthur, resident, also requested that the item be continued to May 14, 2012 meeting.

Deputy Attorney Bettenhausen explained that easement rights disputed by Mr. Walker are not deliberations that the Planning Commission has the authority to make; however, they can speak about the traffic issues that may be related.

**MOTION:** Hear item number ZA-12-10 tonight and not postpone it to the May 14, 2012 meeting.  
**Moved by Vice Chair Clark, seconded by Commissioner Fitzpatrick.**

The motion carried by the following roll call vote:  
Ayes: McCarthy, Clark, Fitzpatrick, Salcedo  
Noes: None  
Absent: None  
Recused: Dickson

Bryon Ward, applicant, explained the purpose and intent of the project, and agreed to comply with the conditions of Exhibit B. With regard to noise, Mr. Ward indicated that Starbucks will use the AVC (Adjustable Volume Control) technology in the order board. Paul Wilkinson from Linscott, Law and Greenspan, Engineers, indicated that the traffic circulation was appropriate.

Rob Hamers, representing Appellant Toby Walker, expressed his concerns about cars backing up in the egress-ingress lanes and the circulatory flow of the traffic.

**PUBLIC COMMENTS:**

Beth Refakes stated her concerns about traffic backing up along 17<sup>th</sup> Street and the parking lot noise late at night caused by Starbucks customers.

Katie Arthur indicated that she is happy that the building is going to be used for business but she is strongly opposed to a drive-through because of car noise, pollution, and traffic. She also disapproved the proposal to plant ficus trees.

Jaime MacLeod agreed with Katie's comments and expressed the same sentiments.

No one else wished to speak and the Chair closed public comments.

Bryon Ward and Paul Wilkinson responded to the public comments, after which, Rob Hamers expressed his concerns about ingress-egress point at the main drive.

Staff and Commissioners discussed about providing landscaping, including 24-inch box size trees, at the rear of the property to alleviate the residents' concern of noise.

**MOTION: Approve Planning Application ZA-12-10 by adoption of Planning Commission Resolution PC-12-11 based on the evidence in the record and the findings contained in Exhibit A, subject to conditions in Exhibit B with the following changes to conditions:**

- 7. Zoning approval and business license authorization for a proposed establishment where food and beverages are served shall be contingent upon validation of the parking conclusions of the March 1, 2012 parking study. This validation shall be in the form of real-time parking counts conducted within 90 days of the coffee shop being fully operational.**
- 12. 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.**
- 16. City understands that the adjacent property may hold certain easement rights over the property that is the subject of this decision. The city is not in a position to determine the legal rights between the two parcels with respect to this easement. Accordingly, the City's approval is made expressly subject to the project being in full compliance with any existing duties, rights and obligations set forth in any easements or other encumbrances recorded against the property. Any construction initiated by applicant is performed at applicant's own risk that it may be inconsistent with existing easements and encumbrances.**

**Moved by Vice Chair Clark, seconded by Commissioner Salcedo.**

The motion carried by the following roll call vote:

Ayes:           McCarthy, Clark, Fitzpatrick, Salcedo  
Noes:           None  
Absent:         None  
Recused:       Dickson

**ATTACHMENT 5  
PLANNING COMMISSION REPORTS AND  
ATTACHMENTS**



# **PLANNING COMMISSION**

## **AGENDA REPORT**

MEETING DATE: APRIL 23, 2012

ITEM NUMBER: VI. 2

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

**DATE:** APRIL 12, 2012

**FROM:** PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY:** MEL LEE, SENIOR PLANNER

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

---

### **PROJECT DESCRIPTION**

The applicant is proposing 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.

The Zoning Administrator's approval of ZA-12-10 was appealed by a property owner and called up for review by a council member.

### **APPLICANT**

The applicant is 450 East 17<sup>th</sup> Street Associates, LLC, who is also the owner of the property.

### **RECOMMENDATION**

Uphold, reverse, or modify the Zoning Administrator's approval by adoption of Planning Commission resolution, subject to conditions.

**PLANNING APPLICATION SUMMARY**

Location: 450 East 17<sup>th</sup> 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: <u>C1</u>	North: <u>R1, single-family residences</u>
General Plan: <u>General Commercial</u>	South: <u>Across East 17<sup>th</sup> St., C1, commercial uses</u>
Lot Dimensions: <u>126 FT x 300 FT</u>	East: <u>C1, commercial uses</u>
Lot Area: <u>35,317 SF</u>	West: <u>C1, commercial uses</u>
Existing Development: <u>Credit union building, drive-through lane, and surface parking</u>	

**DEVELOPMENT STANDARD COMPARISON**

<u>Development Standard</u>	<u>Required/Allowed</u>	<u>Proposed/Provided</u>
<b>Lot Size:</b>		
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
<b>Setbacks (Building)</b>		
Front (East 17 <sup>th</sup> Street)	20 FT	15 FT (1)
Side (left/right)	15 FT/0 FT	25 FT/46 FT
Rear	58 FT	170 FT
<b>Parking:</b>		
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 (see staff report discussion).		
CEQA Status	Exempt, Class 1 (Existing Facilities)	
Final Action	Planning Commission	

## BACKGROUND

### *Project Site/Environs*

The property is located on the north side of East 17<sup>th</sup> 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 154-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.

### *Minor Conditional Use Permit ZA-12-10*

On March 26, 2012, the Zoning Administrator approved a Minor Conditional Use Permit for a future 2,356 square-foot coffee house with the parking demand and traffic characteristics of a Starbucks Coffee Shop ("coffee shop") with drive-through service. According to the applicant, the remaining portion of the building, approximately 2,185 square feet, has been allocated for a future restaurant tenant use (a specific tenant has not been identified) bringing the total net area to 4,541 square feet. An existing 1,250 square-foot second floor mezzanine within the building will be removed as part of the building remodel. Outdoor patios are also proposed. The applicant also proposes remodeling the exterior of the building with contemporary architecture.

A shared parking analysis dated March 1, 2012, was prepared for the project by Linscott, Law & Greenspan Engineers (LLG), a copy of which is attached to this report (Attachment 5). A shared parking analysis is a tool to identify peak parking demand in multi-tenant commercial centers. In some cases, depending on the different mix of land uses, it may show a lower parking requirement compared to straight "Code-required" parking requirements. This parking study analyzed 2,356 square feet of the building being occupied with a drive-through coffee shop and the balance of the building (2,185 square feet) being occupied by a food service tenant.

In this case, required parking was calculated based on a scenario wherein both spaces are occupied by eating and drinking establishments, which is consistent with the applicant's proposed use of the property. Under the assumption that the building is fully leased and occupied, the study concludes that, based on the proposed mix of uses, there would be a **surplus of 3 parking spaces** (39 spaces required; 42 parking spaces provided) during the PM peak times on the weekdays and weekends. The study concluded that there would be adequate parking. A condition of approval was included requiring that approval for a second food use in the building was contingent upon validation of the parking conclusions of the March 1, 2012 parking study with real-time parking counts conducted within 180 days of the coffee shop being fully operational (Condition no. 7).

The existing drive-through is set back approximately 140 feet from the nearest single-family residences to the north (rear), which is separated by an existing masonry block wall at least six feet in height and an existing 14-foot wide landscape planter, where the existing mature trees were recently removed. A condition of approval was included

requiring this landscape planter to be densely re-planted with trees minimum 24-inch box size and other landscape materials (Condition no. 12). While this landscape area will not buffer noise as effectively as the existing block wall, it will also provide an effective visual barrier from the abutting residences, therefore, minimizing any adverse impacts to the adjacent residences.

On April 2, 2012, an appeal was filed by Toby Walker, an adjoining property owner of the commercial property at 462 East 17<sup>th</sup> Street. A request for review was also filed by Council member Leece (Attachment 3).

## ANALYSIS

### *Appeal and Review of Zoning Application ZA-12-10*

#### **Issues Raised in the Appeal:**

1. Issue: The owner of 450 East 17<sup>th</sup> Street has never offered the owner of 462 East 17<sup>th</sup> Street a modification to the existing access and parking easement, therefore, if the development is approved in its current configuration, 462 East 17<sup>th</sup> Street tenants will not be able to park in the area specified in the easement and there will be a planter blocking use of the egress lane. No resolution to this issue has been proposed.

Response: Private property easements that exist between property owners are not regulated by the City's Zoning Code; therefore, the City has no authority over how this easement is utilized between the owners. However, it should be noted that on page 2 of the parking study prepared by Linscott, Law & Greenspan Engineers (LLG) for the proposed project, a copy of which is attached to this report, discusses the existing easement and the necessity to make available up to three parking spaces for use of tenants and visitors for the 462 East 17<sup>th</sup> Street property, which is reflected in the design of the parking area for the proposed project.

2. Issue: Of critical importance, the current site plan causes all of the following ingress-egress activities to simultaneously occur in the same area, thereby causing a confluence of conflicting vehicle movements.

Response: The design of the drive-through lane, parking areas, and other vehicle circulation areas was reviewed by the Transportation Services Division, which confirmed the project as designed meets or exceeds all applicable requirements.

3. Issue: With the expected traffic generated from the applicant's proposed food service establishments, which have high traffic volumes, it is very likely there will occur a standstill condition and an inability to maneuver.

Response: See response to number 2 above.

4. Issue: The traffic study does not address the confluence area, which is a critically important consideration for continuing successful use of each parcel.

Response: The applicant is having LLG prepare a response to this item, which will be forwarded to the Commission once it is received by staff (see email Attachment 4).

5. Issue: Fire Department access and response time is of concern because of the impact of the confluence area.

Response: The project was reviewed by Fire Prevention, which confirmed the project as designed meets or exceeds all applicable requirements.

6. Issue: There is also the possibility that a change of use for 462 East 17<sup>th</sup> Street will increase the demand on the ingress-egress easement and confluence area. Whereas 450 East 17<sup>th</sup> Street is considering a more upscale and active use, the use and traffic study should include parallel improvements to 462 East 17<sup>th</sup> Street.

Response: As of this date a specific project or change of use for the 462 East 17<sup>th</sup> Street property has not been identified by the appellant or submitted to the City.

7. Issue: There is also the possibility that the standstill condition will cause cars and delivery truck to wait on 17<sup>th</sup> Street until space occurs for ingress.

Response: See response to number 2 above.

#### **Issue raised in the Request for Review:**

1. Issue: I would like to pull this decision for review due to the fact there were five opposed. Perhaps we can address some of their concerns.

Response: The developer has indicated that they have been working with the adjacent residential neighbors to address their concerns, which will be forwarded to the Commission once it is received by staff (see email Attachment 4).

#### **ENVIRONMENTAL DETERMINATION**

If the project approval is upheld by the Commission, the project would be exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities. If the project is denied, it would be exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15270(a) for projects which are disapproved.

#### **GENERAL PLAN CONFORMITY**

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

## ALTERNATIVES

The Planning Commission has the following alternatives:

1. Approve the project, subject to the recommended conditions of approval.
2. Deny the project. If the project were denied, the applicant could not submit substantially the same type of application for six months.

## CONCLUSION

The Zoning Administrator concluded that the proposed project, with the recommended conditions of approval, will not create adverse impacts to surrounding properties or uses. Therefore, staff recommends approval of the project.

  
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MEL LEE, AICP  
Senior Planner

  
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WILLA BOUWENS-KILLEEN, AICP  
Zoning Administrator

Attachments: ~~1. Draft Planning Commission Resolutions~~  
~~2. Location Map~~  
3. Appeal and Review Request  
4. Applicant's Email Response  
5. Approval Letter for ZA-12-10 and Exhibits  
~~6. Correspondence Received From Public~~  
~~7. Plans~~

cc: City Council (5)  
Chief Executive Officer  
Assistant Chief Executive Officer  
Economic Development Director  
Interim Development Services Director  
Deputy City Attorney  
City Engineer  
Transportation Services Manager  
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