

**ATTACHMENT 3
APPEAL AND REVIEW REQUEST**



City of Costa Mesa

Received
City of Costa Mesa
Development Services Department

APR 02 2012

- 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 [x] 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

Date: 3/30/12 Signature: [Handwritten 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:

Background

For 30 years, both 450 and 462 E. 17th Street have had low demand banking institutions and other low demand activities. In 1982, the two property owners recognized that 462 E. 17th Street needed access over 450 E. 17th Street and an ingress-egress and parking easement over 450 E. 17th Street was granted to 462 E. 17th 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. 17th Street. The limits of said easement are shown on the attached copy of the proposed grading plan for 450 E. 17th Street.

Current Proposal

The applicant for 450 E. 17th 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

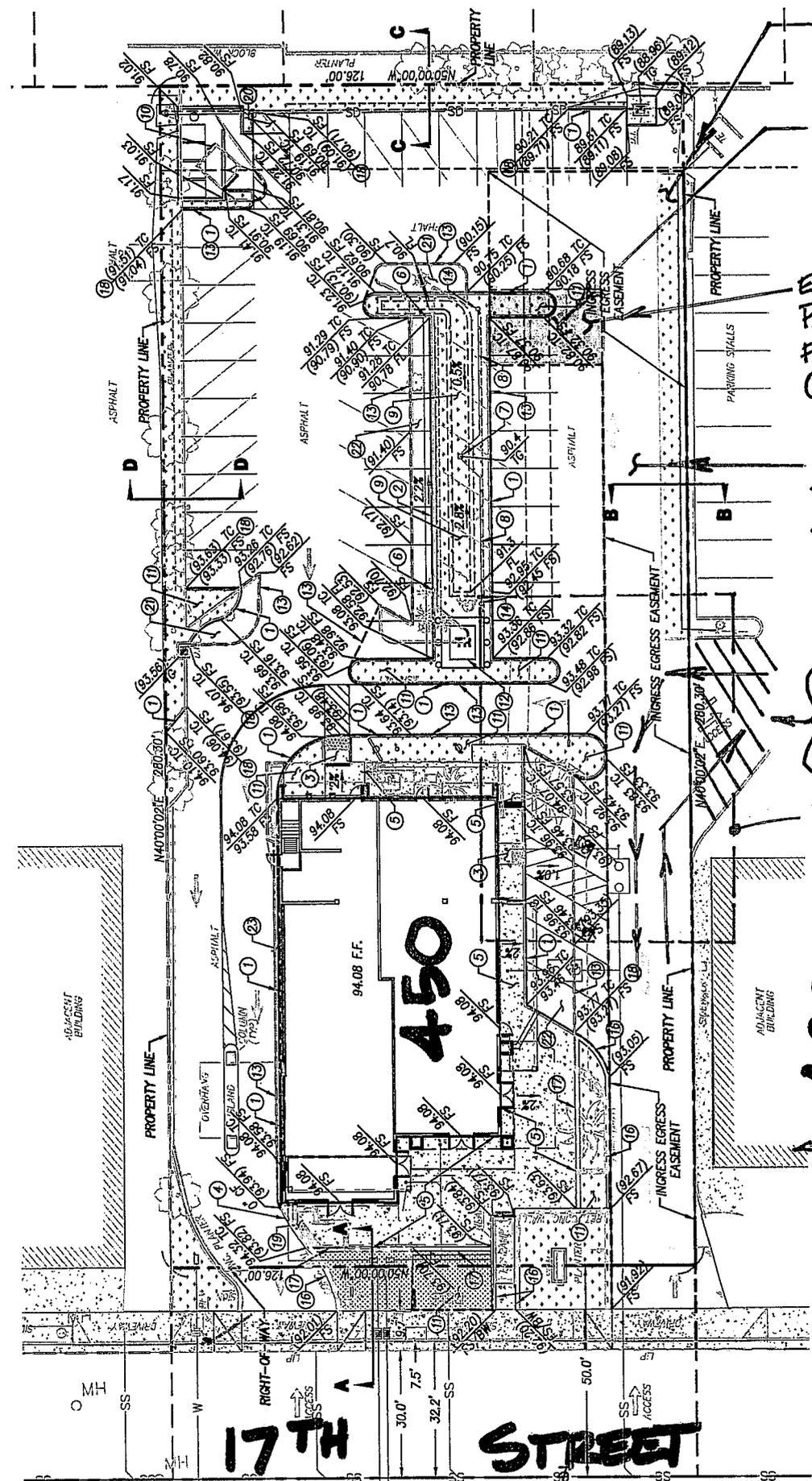
The following issues have not been satisfactorily resolved and it is hereby requested the City withdraw its approval of zoning application ZA-12-10:

1. The owner of 450 E. 17th Street has never offered the owner of 462 E. 17th Street a modification to the existing access and parking easement, therefore, if the development is approved in its current configuration, 462 E. 17th 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. 17th 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. 17th 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. 17th 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. 17th Street will **increase** the demand on the ingress-egress easement and confluence area. Whereas 350 E. 17th Street is considering a more upscale and active use, the use and traffic study should include parallel improvements to 462 E. 17th Street.
7. There is the possibility that the standstill condition will cause cars and delivery trucks to wait on 17th Street until space occurs for ingress.

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PROPOSED PLANTER
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"

450

402

17TH

STREET

17TH STREET (PUBLIC)

88

GRANT OF EASEMENTS

800 236

This Agreement made this 23rd day of August, 1982 by and between Home Savings of America, a Federal Savings and Loan Association, hereinafter referred to as "Grantor" and Wells Fargo Bank, N.A., a national association, hereinafter referred to as "Grantee."

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RECITALS

A. Grantee has, contemporaneously with this Grant of Easements, granted to Grantor fee title to that certain real property commonly known as 450 East Seventeenth Street, located in the City of Costa Mesa, County of Orange, State of California, hereinafter referred to as the "Servient Tenement," and described as follows:

The Northwesterly rectangular 126 feet of Lot 98 of "Newport Heights", in the City of Costa Mesa, as shown on a map thereof recorded in Book 4, Page 83, Miscellaneous Maps, Records of said Orange County.

82-297213

B. Grantee is the current lessee under that certain ground lease dated June 21, 1962, recorded July 5, 1962, in Book 6166, page 243, Official Records and as amended by two memoranda of amendment to lease, each recorded August 17, 1971. Hereinafter, Grantee's leasehold estate is referred to as the "Dominant Estate."

C. Grantee desires to acquire certain rights in the Servient Tenement.

IN CONSIDERATION of the mutual covenants created herein, Grantor and Grantee agree as follows:

1. Grant of Easements. Grantor hereby grants to Grantee the easements as hereinafter described, which shall be effective until July 31, 2061.
2. Character of Easements. The easements granted herein shall be appurtenant to the Dominant Estate.
3. Description and Location of Easements. The easements granted herein are for ingress, egress and parking, and are more fully described in Exhibits "A" and "B" attached hereto and incorporated herein.
4. Exclusiveness of Easements. The easements granted herein shall be nonexclusive.

5. Secondary Easements. The easements granted herein include incidental rights of maintenance, repair and replacement of the easements.

6. Costs of Maintenance, Repair and Replacement. Grantor shall pay one-half of all costs incurred by Grantee in maintaining, repairing and replacing the easements. Grantor shall make payment to Grantee of its share of such costs within fifteen (15) days of receipt of an itemized statement therefor from Grantee.

7. Purpose of Easements. The purpose of the easements granted herein is to provide Grantee with access to the Dominant Estate and to provide certain parking spaces on the Servient Estate for itself, its customers and all its subtenants, assigns and their customers.

8. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by the party to be charged.

9. Attorneys' Fees. In the event of any controversy, claim or dispute relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.

10. Binding Effect. This instrument shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first written above.

GRANTOR:

HOME SAVINGS OF AMERICA

By: John Rainist
Vice President

By: Elaine McNeill
Assistant Secretary

GRANTEE:

WELLS FARGO BANK, N.A.

By: [Signature]
Assistant Secretary

By: [Signature]
Vice President

DESCRIPTION OF EASEMENT FOR WELLS FARGO BANK, N.A.

PARCEL 1

An easement for ingress and egress over that portion of Lot 98 of Newport Heights in the city of Costa Mesa, county of Orange, state of California as shown on a map recorded in Book 4, Page 83 of Miscellaneous Maps in the office of the County Recorder of said county, described as follows:

Beginning at a point that is distant South $50^{\circ} 00' 00''$ East 126.00 feet and North $40^{\circ} 00' 00''$ East 20.00 feet from the westerly corner of said lot; thence North $40^{\circ} 00' 00''$ East 259.50 feet; thence North $50^{\circ} 00' 00''$ West 47.00 feet; thence South $40^{\circ} 00' 00''$ West 28.00 feet; thence South $50^{\circ} 00' 00''$ East 27.00 feet; thence South $40^{\circ} 00' 00''$ West 231.50 feet; thence South $50^{\circ} 00' 00''$ East 20.00 feet to the point of beginning.

PARCEL 2

An easement for ingress, egress and parking purposes over that portion of Lot 98 of Newport Heights in the city of Costa Mesa, county of Orange, state of California, as shown on a map recorded in Book 4, Page 83 of Miscellaneous Maps in the office of the County Recorder of said county, described as follows:

Beginning at a point that is distant South $50^{\circ} 00' 00''$ East 106.00 feet and North $40^{\circ} 00' 00''$ East 20.00 from the westerly corner of said lot; thence North $40^{\circ} 00' 00''$ East 231.50 feet to the TRUE POINT OF BEGINNING; thence North $50^{\circ} 00' 00''$ West 27.00 feet; thence South $40^{\circ} 00' 00''$ West 18.00 feet; thence South $50^{\circ} 00' 00''$ East 27.00 feet; thence North $40^{\circ} 00' 00''$ East 18.00 feet to the TRUE POINT OF BEGINNING.

NEWPORT

M.M. 4/83

80' HEIGHTS

N 50°00'00"W 47.00'

PARCEL 1

LOT

N 40°00'00"E 46.00'

28.00'

N 50°00'00"W

N 40°00'00"E 18.00'

27.00'

27.00'

N 50°00'00"W

PARCEL 2

T.P.O.B. PCL. 2

Johnson Property

LOT 97

WESTECLY CORNER LOT 98

28.00'

P.O.B. PCL. 1

N 40°00'00"E 20.00'

106'

106.00'

N 50°00'00"W 126.00'

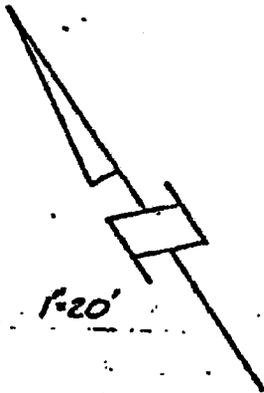
E 17TH STREET

660'

80'

20'

E IRVINE AVENUE



SKETCH TO ACCOMPANY LEGAL DESCRIPTION FOR- WELLS FARGO BANK PTN. LOT 98, NEWPORT HEIGHTS M.M. 4/83



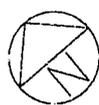
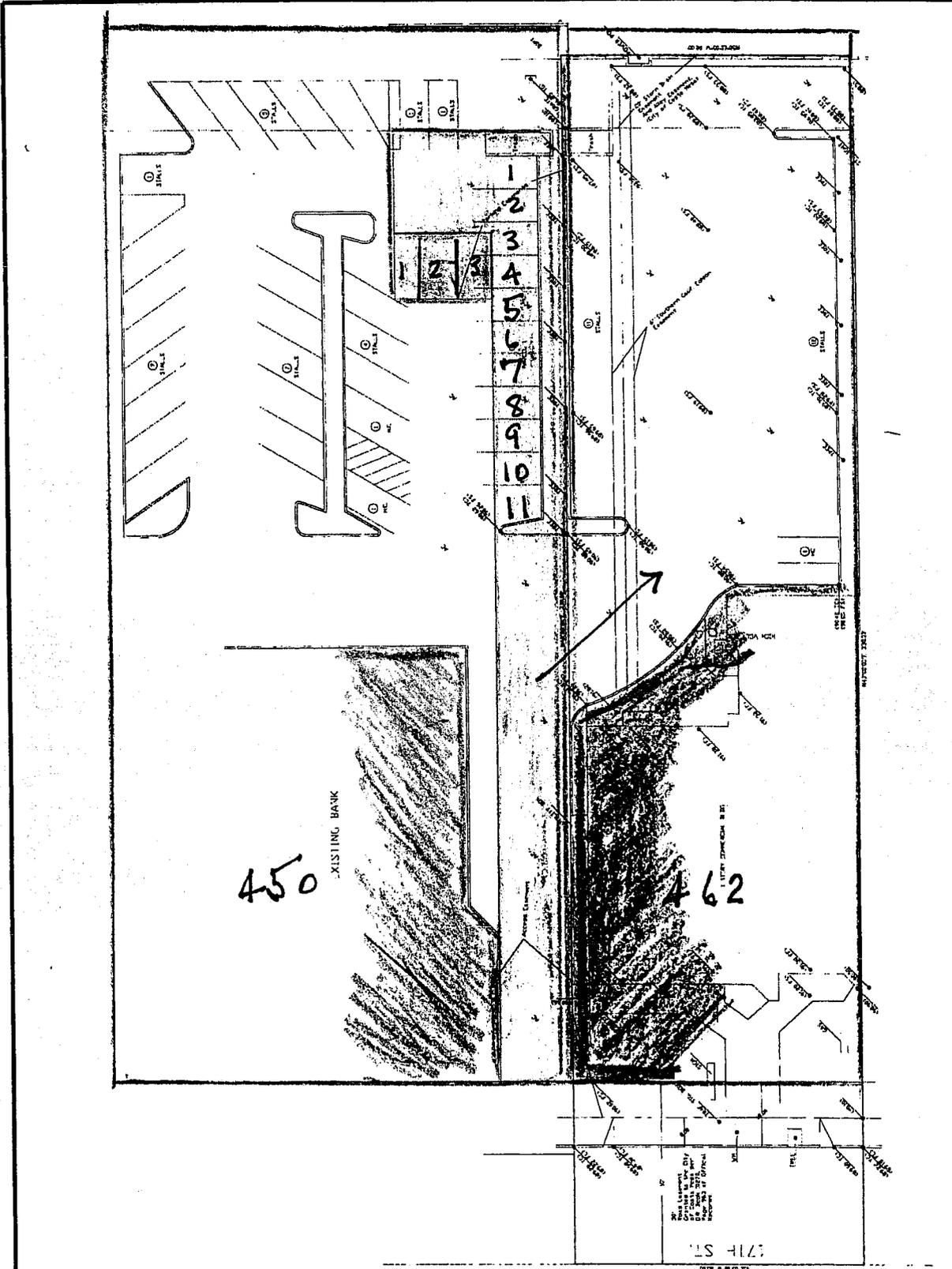
Boyle Engineering Corporation

CONSULTING ENGINEERS / ARCHITECTS

AUG. 5, 1982

508-002-00

W-1280



Scale 1"=10'

95

ADDRESS OF PUBLIC

BENCH MARK

LEGAL DESCRIPTION

UNIQUE

TIPICAMERIC SURVLY

SURVEYING INC.



APR 02 2012

- Appeal of Planning Commission Decision -
- Appeal of Zoning Administrator/Staff Decision -

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* Wendy Leece
Address Costa Mesa City Council
Phone _____ Representing _____

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.)

Zoning Application ZA-12-10 for 450 E. 17th Street.

Decision by: Zoning Administrator

Reasons for requesting appeal, rehearing, or review:

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.

Date: April 2, 2012 Signature: Wendy Leece

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
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