



CITY COUNCIL AGENDA REPORT

MEETING DATE: MARCH 15, 2016

ITEM NUMBER: PH-2

SUBJECT: APPEAL OF THE PLANNING COMMISSION'S DENIAL OF ZONING APPLICATION ZA-15-38 FOR A RELIGIOUS AND CULTURAL CENTER WITH A DEVIATION FROM SHARED PARKING REQUIREMENTS AT 3184 AIRWAY AVENUE, SUITE J

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MEL LEE, SENIOR PLANNER

DATE: MARCH 3, 2016

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611
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RECOMMENDATION

The Planning Commission recommends that the City Council take the following action:

- Uphold the Planning Commission's denial of Zoning Application ZA-15-38, which was approved by the Zoning Administrator on December 10, 2015, a minor conditional use permit for a deviation from shared parking requirements due to off-set hours of operation for a religious education and cultural assembly use:
 - Monday through Sunday 4:00 a.m. – 6:00 a.m. and 7:00 p.m. – 9:30 p.m.
 - Saturday 10:00 a.m. – 2:00 p.m.
 - Sunday 10:00 a.m. – 2:00 p.m. (10 times per year).

A total of 55 parking spaces are required for the 1,914 square foot assembly area. The proposal involves off-set operational hours in order to utilize the parking area when the other businesses are closed.

The request was originally approved by the Zoning Administrator on December 10, 2015, and called up for review by the Planning Commission on December 11, 2015, which subsequently overturned the Zoning Administrator's approval and denied the request on February 8, 2016. An appeal of the Planning Commission's denial was filed on February 16, 2016, by the applicant.

AUTHORIZED AGENT/APPELLANT

The authorized agent and appellant Salim Rahemtulla, representing Randy Shafer, the property owner.

BACKGROUND

Project Site/Environs

The property is located on the east side of Airway Avenue, north of McCormick Avenue. The site is zoned MP (Industrial Park) and has a General Plan land use designation of Industrial Park. Physical on-site improvements include 32 buildings with 493 parking spaces and three points of ingress/egress on Airway Avenue.

Project Description

The applicant requests approval of a minor conditional use permit (MCUP) to allow the establishment of a religious education and cultural assembly center with a deviation from the shared parking requirements due to offset hours of operation. A total of 55 parking spaces are required by code for the 1,914 square foot assembly area. The proposal involves off-set operational hours in order to utilize the parking area when the other businesses are closed. The following schedule is proposed:

Monday through Sunday:	4:00 a.m. to 6:00 a.m. and 7:00 p.m. to 9:30 p.m.
Saturday:	10:00 a.m. to 2:00 p.m.
Sunday:	10:00 a.m. to 2:00 p.m. (10 times per year).

The project was conditioned to operate at the above times only in order to not interfere with normal business hours of 8:00 a.m. to 5:00 p.m. when parking demand will be at its peak. However, there was concern that parking demands of the proposed religious/cultural center would conflict with the shared parking approved under ZA-10-22 for Berean Community Church at 3184 Airway, Suite A (see below).

Previous Entitlement

In 2010, Minor Conditional Use Permit ZA-10-22 was approved for a church with offset hours of operation at 3184 Airway Avenue, Suite A (Berean Community Church). The church is conditioned to operate as follows:

Sunday:	9:00 a.m. to 1:00 p.m. (every week) and 7:00 p.m. to 10:00 p.m. (4 times per year).
Friday:	7:00 p.m. to 9:00 p.m.
Saturday:	9:00 a.m. to 11:00 a.m. (one time per month).

In their justification letter dated April 1, 2010, the applicant stated they would need a maximum of 109 parking spaces.

Zoning Administrator Action

Despite the potential parking conflicts between the two religious facilities, the Zoning Administrator approved ZA-15-38 on December 10, 2015, subject to compliance with conditions of approval. A link to the Zoning Administrator's decision letter and attachments can be found on the City's website at the below link (hardcopy also attached to this report- Attachment 8):

Planning Commission Action

On December 11, 2015, a request to review the Zoning Administrator's decision was filed by a Planning Commissioner. On February 8, 2016, the review was considered by the Planning Commission. Based on the evidence presented at the hearing by representatives of the Berean Community Church and surrounding business owners (including photographic evidence) that the parking for both religious uses would not be sufficient for the center, the Planning Commission reversed the Zoning Administrator's approval and denied ZA-15-38 on a 3-2 vote (Chair Dickson and Vice Chair Mathews voting no). A link to the Planning Commission staff report can be found on the City's website here (hardcopy also attached to this report – Attachment 8):

<http://www.costamesaca.gov/modules/showdocument.aspx?documentid=20993>

The excerpt of the Planning Commission meeting minutes for the item are attached to this report (Attachment 7).

ANALYSIS

Appeal of Planning Commission Action

On February 16, 2016, the Planning Commission's denial of ZA-15-38 was appealed by the original applicant to the City Council. The basis for the appeal includes the following:

1. The appellant provides a parking study prepared by LSA and other supporting information indicating that there is sufficient parking throughout the center to meet the demand for both uses.
2. If approved, the appellant will put in place the following parking control measures:
 - a. Church members will be notified of appropriate parking locations;
 - b. A corp of volunteers will direct members to the appropriate parking spaces;
 - c. Signage will be put in place directing members where to park; and
 - d. The appellant will work with the surrounding tenants to ensure members park in the appropriate spaces.

Berean Community Church Parking

During the Planning Commission meeting, testimony was presented indicating that the existing Berean Community Church was in violation of their existing minor CUP (ZA-10-22) which limits the number of available parking spaces for their use to 109 spaces. Staff contacted the pastor of the church (who also spoke during the hearing) who indicated via email (see email correspondence in Attachment 5) indicating that they are aware of the requirement and are operating within the 109 parking limit per their approved minor CUP.

De Novo Hearing

The City Council hearing is a **de novo hearing** in which the City Council may consider the project in its entirety. Council may consider all aspects of the proposed use and is not required to limit the discussion to the appellant's issues in the appeal.

LEGAL REVIEW

The City Attorney has reviewed the draft resolutions and they have been approved as to form by the City Attorney's Office.

ALTERNATIVES

The City Council may take the following actions:

1. Uphold the Planning Commission's decision and deny ZA-15-38 without prejudice;
or
2. Reverse the Planning Commission's denial and approve ZA-15-38. Any modifications to the conditions of approval, such as additions or deletions, can be made by the Council as part of this action.

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, City Council is not restricted to the evidence that was previously presented to the Planning Commission.

MEL LEE, AICP
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Economic Development & Development
Services Director / Deputy CEO

- Attachments:
1. [Location Map, Zoning Map, and 500' Radius Map](#)
 2. [Site Photos](#)
 3. [Appeal](#)
 4. [Draft Resolutions and Exhibits](#)
 5. [Correspondence From Public](#)
 6. [Plans](#)
 7. [Planning Commission Meeting Minutes](#)
 8. [February 8, 2016 Planning Commission Staff Report and Attachments](#)
 9. [Planning Commission Resolution](#)

cc:

- Chief Executive Officer
- Assistant Chief Executive Officer
- Economic Development & Development Services Director / Deputy CEO
- City Attorney
- Public Services Director
- Transportation Svs. Mgr.
- City Engineer
- City Clerk (9)
- File (2)

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